

**SB**

**249**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/22/94

FURTHER:

DATE TURNED INTO OFFICE: 3-23-94

The Finance Committee considered SENATE BILL NO. 249

"An Act relating to assisted living homes; repealing references to residential facilities for dependent adults; and providing for an effective date."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)
- or  adopt previous \_\_\_\_\_ CS SB249 (HES)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal
#1 DHS MN/DD	12-29-93		154.3
#3 DHS Medicaid	2-23-94	<del>0</del>	
#4 DHS Claims	2-23-94	<del>0</del>	
#5 DOR	3-8-94	<del>0</del>	

Appropriation No Fiscal Note

**DO PASS:**  
Tim Kelly  
Alan Klein  
Pat Murray  
George ...  
 1. Alan no rec  
 Co-Chair: Signature/Recommendation

**OTHER RECOMMENDATIONS:**  
J. ... no Rec  
 2. Tim Kelly no Rec  
 Co-Chair: Signature/Recommendation

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Bill Version: SB 249

(S) Publish Date: 1-14-94

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Assisted Living Homes BRU: Institutions & Admin  
 Sponsor: Rules Committee Component: MH/DD Admin  
 Requestor: Governor's Office COMPONENT SERIAL NO. 310

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	103.3	106.9	110.6	114.5	118.5	122.7
TRAVEL	20.0	20.7	21.4	22.2	23.0	23.8
CONTRACTUAL	20.0	20.7	21.4	22.2	23.0	23.8
SUPPLIES	1.0	1.0	1.1	1.1	1.1	1.2
EQUIPMENT	10.0					
LAND STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>154.3</b>	<b>149.3</b>	<b>154.5</b>	<b>160.0</b>	<b>165.6</b>	<b>171.5</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>					
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<b>CHANGES IN REVENUES</b>	<b>0</b>					
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA	154.3	149.3	154.5	160.0	165.6	171.5
Other						
<b>TOTAL</b>	<b>154.3</b>	<b>149.3</b>	<b>154.5</b>	<b>160.0</b>	<b>165.6</b>	<b>171.5</b>

**POSITIONS:**

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

Changes in CS SB249 (HES)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
3/10/94 beb  
 date Comte Aide (initial)

Estimate of current year (FY94) cost \$ \_\_\_\_\_

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

This bill provides for licensure of assisted living homes. These homes would be established primarily to provide a home-like setting for elderly persons and persons with a mental or physical disability who need assistance with activities of daily living.

Currently, the Department of Health and Social Services, Division of Family and Youth Services, licenses adult foster homes and group homes and institutions caring for dependent adults. The bill would delete references to these licensing functions and add a new chapter regarding assisted living homes. Under the bill, the Department of Health and Social Services would license assisted living homes that will be providing care primarily to individuals with a mental or developmental disability. The Department of Administration would license assisted living homes that will be providing care primarily to individuals who have a physical disability.

Prepared by: Quillie R. ... for Rules Committee Phone: \_\_\_\_\_  
 Division: Mental Health and Developmental Disabilities Date: 12/29/93  
 Approved by Commissioner: Margaret R. Lowe Date: 12/29/93  
 Agency: Department of Health & Social Services

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**ANALYSIS (cont.):**

who are elderly, or who suffer from dementia but who are not chronically ill.

**Assumptions:**

Based upon the projected workload it is anticipated that the Division of Mental Health and Developmental Disabilities will need two full-time Community Care Licensing Specialists to adequately provide timely inspection of all facilities across the State that serve individuals with a mental or developmental disability.

**Program Summary:**

The cost projections are based upon the following information: Two range 16, Step A full time positions located in Anchorage. These positions will travel statewide to perform inspections, provide technical assistance to facilities for compliance issues and to follow-up on consumer complaints. One position will be transferred from the Division of Family and Youth Services to the Division of Mental Health and Developmental Disabilities.

**Other Expenditures:**

- Travel for each position to perform inspections, provide technical assistance to facilities and follow-up on consumer complaints.
- Contractual services for Anchorage office space, phones systems, copier and data lines; general offices supplies for both positions.
- Equipment, first year purchase of two desk top computers/printers and software for data collection, word processing and statistical reporting; office furniture including desks, chairs, file cabinets, etc.

**Computations:**

All expenditures have been adjusted with an inflation factor of 3.5% for each year after FY95 and carried out to FY2000.

**Economic Impact:**

Assisted Living Program will stimulate the local communities as it will offer new employment opportunities as additional facilities are brought on line across the State and will allow many family care-givers to return to their careers.

Position Title Community Care Licensing Specialist		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District
TYPE OF EXPENDITURE		Amount	Justification  The Assisted Living Homes bill provides for licensure of assisted living homes. The homes are established primarily to provide a home-like setting for elderly persons and persons with a mental or physical disability who need assistance with activities of daily living.  A licensure function is not one currently performed by the Division of Mental Health and Developmental Disabilities. Additionally, existing staff cannot absorb the additional responsibilities because of the increased workloads associated with Project Choice and the Tefra Option. Therefore, two positions are requested to provide timely inspections and licensing of all facilities across the State that serve individuals with a mental or developmental disability. The positions are responsible for performing inspections, providing technical assistance to facilities for compliance issues, and following up on consumer complaints. These positions are necessary to assure the health and safety of disabled individuals residing in these homes.  One position will be transferred from the Division of Family and Youth Services.	
Salary		73.0		
Benefits		30.3		
Premium Pay				
Other				
Total Personal Services		103.3		
Travel		20.0		
Contractual		20.0		
Commodities <i>Supplies</i>		1.0		
Equipment		10.0		
Other				
Total Cost		154.3		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004			
IA Receipts	1007			
CIP Receipts	1061			
Other	GF/MHTIA 1006	154.3		

**Request For  
New Position**

AGENCY Health and Social Services  
 BRU Institutions & Admin  
 COMPONENT MH/DD Admin

**FY** 95

Page 3 of 3  
 Revised Date: \_\_\_\_\_

FISCAL NOTE

No. 3

Version: SB 249

(S) Publish Date: 3-10-94

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected Health and Social Services  
 Title: An Act relating to assisted living homes BRU: Medical Assistance  
repealing references to residential facilities... Component: Medicaid Non-facility  
 Sponsor: Governor  
 Requestor: Senate HESS COMPONENT SERIAL NO. 229

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	383.2	894.6	1,393.2	2,038.6	2,745.2
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>\$0.0</b>	<b>\$383.2</b>	<b>\$894.6</b>	<b>\$1,393.2</b>	<b>\$2,038.6</b>	<b>\$2,745.2</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	191.6	447.3	696.6	1,019.3	1,372.6
1003 GF Match	0.0	191.6	447.3	696.6	1,019.3	1,372.6
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>\$0.0</b>	<b>\$383.2</b>	<b>\$894.6</b>	<b>\$1,393.2</b>	<b>\$2,038.6</b>	<b>\$2,745.2</b>

Estimate of current year (FY94) impact: 0.0

POSITIONS:

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

Changes in SSB 249 (HESS)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.

3/10/94 hah  
 date Comite Aide (initial)

ANALYSIS (attach a separate page in necessary)

See attached pages for calculations and assumptions about projected utilization. This fiscal note assumes that a certificate of need will be required before any conversion of an assisted living facility into a nursing home (notwithstanding the expenditure threshold set out in AS 18.07.031); that payment of personal care and nursing services for home health and hospice will be available in assisted living facilities only after FY95, at which time the Div. of Medical Assistance will have drafted regulations to specify the methodology and limits of any payment; and that the bill does not bring assisted living facilities under the rules and interpretations of the Med. Rate Advisory Commission

Prepared by: Dave W. Williams DW  
 Division: Medical Assistance

Phone: 465-3355  
 Date: 2/23/94

Approved by  
 Commissioner: Margaret R. Lowe, M.Ed., Ed.S. ML  
 Agency: Department of Health and Social Services

Date: 2/23/94

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# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Version: SB 249  
(C) Publish Date: 3-10-94

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: An Act relating to assisted living homes BRU: Medical Assistance Administration  
repealing references to residential facilities... Component: Claims Processing  
 Sponsor: Governor  
 Requestor: Senate HESS COMPONENT SERIAL NO. 243

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

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	\$0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	\$0.0
CONTRACTUAL	0.0	39.0	12.2	34.2	51.6	69.6
SUPPLIES	0.0	0.0	0.0	0.0	0.0	\$0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	\$0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	\$0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	\$0.0
<b>TOTAL OPERATING</b>	<b>\$0.0</b>	<b>\$39.0</b>	<b>\$12.2</b>	<b>\$34.2</b>	<b>\$51.6</b>	<b>\$69.6</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGES IN REVENUES</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	19.5	6.1	17.1	25.8	34.8
1003 GF Match	0.0	19.5	6.1	17.1	25.8	34.8
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>\$0.0</b>	<b>\$39.0</b>	<b>\$12.2</b>	<b>\$34.2</b>	<b>\$51.6</b>	<b>\$69.6</b>

Estimate of current year (FY94) impact: 0.0

**POSITIONS:**

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

Changes in CSSB 249 (HES)  
 reflect **NO FISCAL CHANGE** from the original  
 fiscal note. This fiscal note is appropriate.  
 3/10/94 ban  
 date Comte Aide (initial)

**ANALYSIS** (attach a separate page in necessary)

Contractual costs are for claims processing at \$6.23 per claim. The attached pages provide calculations for estimated costs. Federal participation is available at 50% of costs.

Prepared by: Dave W. Williams DW  
 Division: Medical Assistance  
 Approved by  
 Commissioner: Margaret R. Lowe, M.Ed., Ed.S. ML  
 Agency: Department of Health and Social Services

Phone: 465-3355  
 Date: 2/23/94

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## ASSUMPTIONS PERTAINING TO FISCAL ANALYSIS OF SB249 AND HB377

A Certificate of Need under AS 18.07.031-111 will be required before any conversion of part or all an assisted living facility into a nursing home, notwithstanding the expenditure threshold set out in AS 18.07.031; no CON will be required for new construction of assisted living facilities. Medicaid payment of personal care, home health, and hospice services will be available in assisted living homes and assisted living facilities. Assisted living homes and facilities do not qualify as institutional facilities under the purview of the Medicaid Rate Advisory Commission and are not subject to the same rules or interpretations for establishing Medicaid rates.

**MEDICAID SERVICE RATES**

Medicaid payment of Personal Care Services provided in assisted living facilities will be at \$18.00 through enrolled PCA agencies. Similarly, home health and hospice service costs will primarily be paid at the same rate as for a skilled nurse, \$29.69 per hour.

Medical services costs will increase at 5% per year for inflation.

The Division of Medical Assistance will develop regulations under the new section 47 33 340 to limit payment for medicaid services delivered in or through an assisted living facility to be less than the statewide average medicaid cost for nursing home care.

**UTILIZATION**

Access to Medicaid services for personal care, home health, and hospice as delivered through or at assisted living homes and facilities will be limited by the number of such homes and facilities built and converted from other licensure. These are assumed to become available at the capacity and year indicated by the Older Alaskan Commission documents: "Long-term Care Alternatives for Alaska's Elderly: A Report, 1993 and Beyond," September, 1993, and "A Blueprint for Home-based Long-term Care for the Elderly in Alaska, 1993 and Beyond," September, 1993, and as further clarified in a memo from the OAC dated February 8, 1994. Those facilities are expected to become available and serve the number of people as indicated below:

Planned construction and capacity in assisted living facilities						
	FY95	FY96	FY97	FY98	FY99	FY00
Small homes	0					
Homer Sr Citizens		40				
Small homes		20				
Providence			60			
Small homes			30			
1 or 2 rural centers				40		
Small homes				30		
One large facility					60	
Small homes					40	
Facilities (extrapolated)						60
Homes (extrapolated)						40
Totals	0	60	90	70	100	100
Cumulative Totals		60	150	220	320	420
Percentages of 5 years		14.29%	21.43%	16.67%	23.81%	23.81%

Some people who need the type of medicaid services that may be delivered in an assisted living facility are already receiving those services at home or other, state-supported facilities. The OAC memo dated February 8, 1993 indicates that perhaps 68 seniors will receive those services at an assisted living home or facility over a five-year period beginning in FY 1996. Other OAC studies indicate a much higher number of seniors may need assisted living services. The following table indicates the identified need of older Alaskans for assisted living services and how much of that need is already addressed by the existing health care system. About 600 medicaid eligible persons remain unserved.

## ASSUMPTIONS PERTAINING TO FISCAL ANALYSIS OF SB249 AND SB377

**Estimated Medicaid Population in Need of Assisted Living**

Age 65+ needing assisted living (from Older Alaska's Commission study, "Long-term Care Alternatives for Alaska's Elderly: A Report," September, 1993)	9,687
Medicaid eligible portion at 20%	1,937

**Resources Already Available to Address Need**

Served by PCA services, FY 94 (From February 1994 DPH report, 330 age 60+ served by Home Care Services program, Medicaid portion.)	330
Assisted living clients served in nursing homes; assumed to be 80% of age 65+, Medicaid eligible utilization indicated by FFY1993 HCFA 2082 report.	526
Medicaid eligible assisted living clients served in Pioneers Homes; assumed to be 20% of assisted living and nursing beds February, 1994	69
To be served by aged waiver in 3rd year	401
<b>Total persons already served</b>	<b>1,326</b>

**Unmet Need Medicaid Eligible Age 65+ not served by the existing system**

**611**

In addition to the OAC estimate of 68 people, it is assumed for the purpose of this fiscal note that 5 additional persons between the ages of 21 and 64 not being served under a home and community-based waiver will access services each year beginning in FY96. This 25 person group represents the younger adult population who are disabled according to SSI standards and, therefore, qualify for Medicaid. Of this five-year total of 93 Medicaid recipients (68 OAC and 25 SSI) it is assumed that 30% will be severely impaired and 70% moderately impaired.

**COST (Medicaid non-facility 229)**

The annual cost of meeting this need is given below and is based upon the FY 94 rates for personal care services and skilled nursing (non-facility) at the number of service hours indicated by the OAC study documents noted above.

<b>Estimated Annual Cost for Services</b>	
<b>Moderately impaired:</b>	
474 hrs of PCS @ \$18.00 per hr	\$8,532
148 hrs. of skilled nursing @ \$29.69	\$4,394
<b>Average cost per recipient</b>	<b>\$12,926</b>
<b>Severely impaired:</b>	
948 hrs of PCS @ \$18.00 per hr	\$17,064
298 hrs. of skilled nursing @ \$29.69 per hr	\$8,788
<b>Average cost per recipient</b>	<b>\$25,852</b>

Cost and utilization produces the estimates given in the table below. A 5% cost increase per year is included as an adjustment for inflation. The number of seniors is spread over the five-year period.

Medicaid Recipients at Assisted Living Homes & Facilities						
	FY95	FY96	FY97	FY98	FY99	FY00
Seniors >65	0	10	15	11	16	16
Adults >21 & <6	0	12	12	12	12	12
Total	0	22	27	23	28	28
Cumulative	0	22	48	72	100	128
Mod. impaired/		15	34	50	70	90
cost in thousands		\$206	\$482	\$750	\$1,098	\$1,478
Sev. impaired/		7	14	21	30	38
cost in thousands		\$177	\$413	\$643	\$941	\$1,267
Total cost in thousands		\$383	\$895	\$1,393	\$2,039	\$2,745

#### CLAIMS (claims processing 243)

The number of claims submitted per recipient will vary depending upon the method of claims submission. For larger facilities it is assumed that a payment methodology will be established which allows submission of 4 claims per recipient per month for all services. For small homes it is assumed that there will be a claim submitted for every 8 hours of service delivered which is 101 claims per year based on the OAC document estimates. The processing cost of each claim is \$6.23 and a 5% per year increase is assumed for inflation. An estimated \$30,000 in a one-time expenditure will be required for making system changes for a payment methodology that limits the cost for any given recipient to less than the cost of staying a nursing home.

Medicaid Claims Processing for Assisted Living Homes & Facilities						
	FY95	FY96	FY97	FY98	FY99	FY00
Small homes/	0	7	9	24	38	49
claims		707	909	2,424	3,838	4,949
Facilities/	0	14	18	48	62	79
claims		672	864	2,304	2,976	3,792
Total claims		1,379	1,773	4,728	6,814	8,741
Cost in thousands		\$9.0	\$12.2	\$34.1	\$51.6	\$69.5
System changes		\$30.0	\$0.0	\$0.0	\$0.0	\$0.0
Total in thousands		\$39.0	\$12.2	\$34.1	\$51.6	\$69.5

Combined Fiscal Note Totals						
	FY95	FY96	FY97	FY98	FY99	FY00
medicaid non-facility 229		383.1	894.6	1,393.2	2,038.6	2,745.2
claims processing 243		9.0	12.2	34.1	51.6	69.5
Totals	\$0.0	\$392.2	\$906.7	\$1,427.3	\$2,090.2	\$2,814.7

# FISCAL NOTE

No. 5

Bill Version: CSSB 249 (HES)

(S) Publish Date: 3-10-94

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected Administration: \_\_\_\_\_  
 Title: "An act relating to assisted living homes, . . ." BRU: Senior Services  
 Component: Pioneers' Homes  
 Sponsor: \_\_\_\_\_  
 Requestor: (S) HES COMPONENT SERIAL NO. 1981

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURE</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( 1005 )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY94) cost: \$ 0.0

POSITIONS:

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

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

Adequate funding is included in the FY95 budget for the new Division of Senior Services to handle the responsibilities of this bill.

Prepared by: Connie J. Sipe, Director Phone: 563-5654  
 Division: Senior Services Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usura Date: 3/8/94  
 Agency: Administration

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Older Alaskans Commission

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Original  
SB 249

## Position Paper on Senate Bill 249

### ASSISTED LIVING HOMES

The Older Alaskans Commission strongly urges passage of Senate Bill 249 introduced by Governor Hickel. This bill creates Assisted Living as a type of long term care in Alaska for seniors, developmentally or physically disabled adults. The bill would incorporate and expand both adult foster care and adult residential care, and move licensing responsibilities for homes for the elderly to the Division of Senior Services.

OAC wholeheartedly supports the change of philosophy illustrated in this bill, from the old idea of "dependent" adults, to recognition that adults are active consumers of services of residential care. Assisted living homes will carry out this philosophy through adequate disclosure of contractual rights between the home and the resident, and by the active participation and "shared responsibility" of the resident in his or her assisted living care plan and decision making process. This change of philosophy is in accord with the Commission's mission "to ensure honor, dignity, security and independence for older Alaskans and to assist them in maintaining meaningful, quality lives."

Senate Bill 249 will promote homelike environments and provides flexibility in the types of services available in an assisted living home. This bill calls for a contractual agreement between the home and the client that delineates what services will be provided. Unlike current laws on adult foster care and adult residential care, this bill allows residents of assisted living facilities or homes to access community-based health care services in their rooms or apartments. The bill also allows certain health services to be delegated by a nurse to unlicensed home staff who have been trained to perform routine health tasks for a particular resident.

One of the primary features of this bill allows a resident of an assisted living home to receive ongoing "intermittent" nursing services. A resident also can receive up to 45 consecutive days of 24-hour nursing care, if the facility can provide the care or if the resident has access to home nursing care from outside the facility. This means that a resident can remain "at home" during an illness and does not have to move to an acute care or a nursing care facility. After the 45 days, the resident, his or her physician, and the assisted living manager may agree together that the ill resident can continue

living "at home" with reduced level of nursing care or with only personal care assistance. This feature of the bill is vitally important to the Older Alaskans Commission because it allows seniors who do not live with their own family caregivers to have the same care choices and the ability to make decisions regarding their health care and living arrangement.

The Older Alaskans Commission believes that passage of Senate Bill 249 will allow senior citizens to "age in place" and receive the services they need to allow them to continue living in the assisted living home of their choice. The Commission also believes that assisted living will provide a less restrictive and more cost-affordable care alternative which will decrease the need of many people to ever be institutionalized.

*Donald M. Hoover*

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Donald M. Hoover, Chairman  
Older Alaskans Commission

*February 4, 1994*

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Date

SB 249

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DoA

February 21, 1994

Governor Walter Hickel  
STATE OF ALASKA  
P. O. Box 110001  
Juneau, AK 99811-0001

Dear Governor Hickel:

I am pleased to report that in general we support SB 248, SB 249, and SB 250 as introduced by your office. However, we strongly suggest that Commission members be allowed to elect their own chair person, rather than an appointed chair as is proposed in SB 250, Sec. 7.

Thank you for your consideration.

With best wishes,

*Bob Huffman*

Bob Huffman, Chairman  
Legislative & Govt. Affairs Comm.  
GRAND IGLOO, PIONEERS OF ALASKA

C. Bill Ray

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GOVERNOR'S OFFICE

## DEPARTMENT OF ADMINISTRATION

### COMMITTEE SUBSTITUTE FOR SENATE BILL 249 (HES) CREATING LICENSING FOR ASSISTED LIVING HOMES

Governor Hickel introduced this bill for the purpose of promoting the operation of homes that help the elderly to "age in place," and disabled adults to reach their highest level of functioning by integration into the community. The bill's many reforms can be summarized in three key points:

**Respect for residents as consumers.** This bill represents an entirely new approach in Alaska to group homes for adults; discarding the old law's notion of these persons as "dependent," and instead treating them as active consumers of the service of residential care, who should receive adequate disclosure of their contractual rights, and who must be invited to actively participate to the greatest extent possible in all decisions regarding their life and care.

**Allowing access to health care in a homelike setting.** This bill treats the dwelling of each assisted living resident as that person's home, not an institution. This bill allows the resident to have access to any community-based health care services available to the resident, and allows the staff of the home to directly provide certain specified health care services. Under current law, a mentally alert person who can not physically administer all of his own medications or who might be bedridden for five days can not legally be allowed to reside in an adult foster home or residential care center, regardless of the nursing capacity of the home staff or the availability of visiting health care personnel.

**Transfer of licensing responsibility to agencies with programmatic experience with independent living for the elderly or persons with disabilities.** This bill will remove licensure of homes for adults from the purview of the Division of Family and Youth Services. Homes which serve primarily persons with mental or developmental disabilities will be licensed by the Department of Health and Social Services through the Division of Mental Health and Developmental Disabilities. Homes which serve primarily the elderly or physically disabled adults will be licensed by the Department of Administration, through the Division of Senior Services.

These changes will put Alaska among the leading states which have moved toward promotion of "assisted living" as a desirable, less restrictive and more cost-affordable care alternative which can decrease the need for many persons to ever be institutionalized.

## DETAILED ANALYSIS OF CSSB249 (HES)

**Section 1, sec. 47.33.005 lists the purposes of the bill:** to encourage care in homelike settings, to promote aging in place and highest functioning by integration into communities, to establish reasonable standards to protect residents while honoring their independence, to require an assisted living plan for each resident; and to provide each resident or the resident's legal representative the maximum opportunity to participate in designing and carrying out the assisted living plan.

**Sec. 47.33.010, Applicability and Definition.** The bill applies only to homes that serve three or more adults not related to the operator. Small foster home arrangements serving only one or two adults would be "de-regulated" by this bill, and left to private contract. An assisted living home is a facility that provides housing and food service to its residents and provides, either directly or by obtaining the services for the resident, one of, or a combination of both of, the following services:

- (1) assistance with activities of daily living; or
- (2) personal assistance.

The bill specifies several types of facilities not included: correctional facilities, alcohol treatment centers, emergency or runaway shelters, etc.

**Sec. 47.33.020, Health-related Services.** This section of bill allows certain specified health care services to be made available to home residents, either by staff of the home when qualified or by outside caregivers such as home health agencies or private duty nurses.

The homes are not required to provide these health-related services, but must specify up front in writing which ones they will either provide or allow to be provided within the facility. When, in subsections (f), (h), and (i), residents are allowed to receive higher levels of nursing care or to choose to live without higher care, the operator of the home also must specifically agree with the resident's choice, and could instead ask the resident to move to another care setting.

Subsections of Sec. 47.33.020, listed in summary fashion below, in addition to allowing self-administration of medicines in (a), state that a licensed home would be allowed to provide staff, or arrange for or admit the resident's own health care provider, either of whom could:

- (c) help residents with self-administration of medications
- (d) provide "intermittent" nursing care less than 24-hour
- (e) home staff only: under a licensed nurse's training and delegation, perform

limited nursing tasks by non-nursing staff

(f) arrange for licensed nurse from outside the home's staff to provide skilled nursing care

(g) provide 24 hour skilled nursing care for up to 45 days to avoid transfer out of the home

(i) provide 24 skilled nursing care beyond 45 days to a terminally ill resident

Note that subsection (h) allows a "non-terminal" resident to stay in the home, with the home's consent, even when the resident has exhausted the 45 days of skilled nursing, the resident and the resident's physician have discussed the consequences and risks and have agreed that the resident wishes to stay in the home while choosing to forego or do without additional 24 hour skilled nursing care.

Note that subsection 47.33.020(b), while allowing the home to provide the health-related services described in (c) - (i), also mandates that the services under (c) - (i) may only be provided "in addition to, and as a supplemental service to, the long-term provision by the home of assistance with the activities of daily living or personal assistance." This subsection is meant to clarify that these assisted living homes are not allowed to act primarily as a nursing home or medical facility.

**Sections 47.33.030 through 47.33.360. Standards for Residents' Rights and the Homes' Duties.**

These sections of the bill define the corresponding contractual rights and duties of the assisted living home and the residents, much like the state's landlord-tenant law or the condominium association statutes. These sections of the bill assume that residents, or their legal representatives such as a guardian, will benefit from advance disclosures of contract terms, as well as participating directly in designing and carrying out their own plans of care. Briefly, the sections can be understood fairly well from their titles and the summary below:

- .030 Advance payments, trust accounts, and refunds
- .040 Residents' money and requirements for safekeeping
- .050 Temporary absences; resident's duty to inform home
- .060 House rules; limits on rules and home's duty to disclose to residents
- .070 Resident files; information home must keep available
- .080 Closure or relocation; advance written notice required
- .090 Rate increase; home must give 30 day notice
- .200 Admission; requires resident's consent
- .210 Admission contract required; contents specified
- .220 Assisted living plan required; who participates

- .230 Assisted living plan contents specified
- .240 Evaluation of assisted living plan; how often
- .300 Residents' rights
- .310 Notice of rights; copy in advance and posted in home
- .320 Access to home by advocacy and legal services organizations
- .330 Prohibitions on conduct by home staff contrary to residents' rights
- .340 Resident grievance procedure; must be written
- .350 Retaliation against home resident for exercising rights or making grievance is prohibited
- .360 Involuntary termination of contract; allowable reasons defined, process specified

**Article 4 of the bill deals with licensing,** sections 47.33.400 through 430. In 47.33.400, the bill prohibits a home which meets the bill's definitions from operating without a license, and also allows smaller homes (serving five or fewer residents) to continue to refer to their homes as "adult foster care homes" despite their new licensing category.

**Licensing agencies, 47.33.410.** Homes which provide care primarily for persons with a mental or developmental disability will be licensed by the Department of Health and Social Services. Homes which care primarily for persons who have a physical disability, are elderly, or have dementia (but not chronic mental illness) will be licensed by the Department of Administration. The departments must coordinate their regulations so as to deal with homes which serve overlapping groups of persons or homes whose "primary" care group of residents changes over time.

Both licensing agencies are given the mandate to establish licensure standards by regulation, to license homes under the chapter, to investigate license applicants and licensees for compliance, and to enforce the standards of the chapter and accompanying regulations.

The licensing agencies may contract with private or municipal agencies to investigate and make recommendations for the licensing of homes.

**Standard forms, Sec. 47.33.420.** In keeping with the purpose of the bill to promote and not to discourage the operation of these homes, the two licensing agencies must cooperatively develop and provide standard forms to assist the operators of the home to comply with the requirements of the law (i.e., forms for residential services contracts, residents' rights disclosures, plans of care outlines, etc.).

**In Sec. 47.33.430, the authority of state agencies to impose additional program or care requirements** is preserved when the state is either paying for the care of the resident with state funds, or when the state has the responsibility to certify a home for payment for resident care from federal funds.

(Note that nothing in this proposed bill or in any other current state or federal laws mandate state or federal payment for the care of any person in an assisted living home. The state currently purchases "protective placement" in adult foster homes and adult residential care facilities for some victims of abuse or neglect. Under the newly instituted Medicaid home care waivers, the state may pay for "residential supported living arrangements," meaning personal assistance beyond basic room and board for a very limited number of persons who meet the waiver eligibility requirements.)

**Article 5 deals with procedures for complaints, investigations, adjudicatory proceedings, sanctions and penalties.**

Sec. 47.33.500 deals with complaints. This section specifies that the licensing agencies will investigate complaints, and will protect the identity of the complainant or resident.

Sec. 47.33.510 provides civil immunity to a good faith complainant.

Sec. 47.33.520 defines investigative procedure and powers.

Sec. 47.33.530 requires written notice of alleged violations, of the time and method for curing them, notice of possible sanctions for non-compliance, and notice of the variance process.

Sec. 47.33.540 requires a procedure for self-made reports of compliance by the home.

Sec. 47.33.550 spells out a broad range of administrative sanctions which a licensing agency may invoke, and specifies the grounds and procedures for doing so. Administrative fines of up to \$ 500 per day are allowed, not to exceed \$ 5,000. A procedure is defined for appealing the sanctions, and for suspending the sanctions until the appeal is completed.

Sec. 47.33.560 specifies the constitutionally required due process procedures to be followed in administrative proceedings under this chapter; rights to notice, public hearings with ability to close the hearing to protect a resident's privacy, rights of residents to intervene, notice of the hearing to all residents.

Sec. 47.33.570 make non-compliance with the licensure requirement of 47.33.400 a class B misdemeanor.

**Article 6 contains general provisions:** Sec. 47.33.910 gives the authority to the licensing agencies to collect licensing fees. Sec. 47.33.920 gives the authority to promulgate regulations.

Sec. 47.33.990 contains the general definitions used in the chapter. Special note may want to be taken by the bill's reader of some of the more significant definitions found in this section, specifically:

- (1) "activities of daily living"
- (5) "aging in place"
- (13) "instrumental activities of daily living"
- (15) "personal assistance"
- (19) [resident's] "representative"
- (20) "service coordinator"
- (22) "terminally ill resident."

Sec. 3 of the bill amends the current AS 11.61.220(a), in the criminal code, to include an assisted living home as one of the places where it would be the crime of criminal misconduct in the fifth degree to knowingly possess a concealed deadly weapon or a firearm.

Sec. 4 of the bill amends current law, AS 18.07.031, the state's "certificate of need" law relative to nursing home construction. Sec. 4 adds a new provision which will forbid the operators of an assisted living home from converting any building or part of a building that was an assisted living home into a nursing home without obtaining approval to do so through the certificate of need process. This section starts by stating that this prohibition against conversion of assisted living homes is not subject to the one million dollar expenditure threshold which now allows construction of nursing homes or conversion of other facilities to nursing home beds or wings without a certificate of need when the cost of conversion or construction is under one million dollars.

**The remainder of the bill affects the transition of duties between the current licensing agency under current law and this bill's new scheme.**

Sec. 5, amends AS 36.30.850(b)(19) in order to continue the exemption from the state procurement code for state-paid contracts for adult residential services provided under the regulations under this chapter.

Sec. 6 amends AS 44.21.240(2), the definition of long term care facility in the statute empowering the long term care ombudsman.

Sec. 7 amends AS 44.62.330(a) by adding this licensing system to the list of procedures covered by the adjudication section of the administrative procedures act.

Sections 8 through 13 amend the current licensing law, AS 47.35, which licenses all child care facilities and homes and all foster homes or residential care facilities "for dependent adults." The only changes are deletions of all references to facilities for adults (leaving only maternity homes and child care facilities).

Sec. 14 amends AS 47.80.140, the licensure and certificate of need statute relating to residential facilities for persons with handicaps, to exempt assisted living homes from that form of licensure and from the certificate of need requirements.

Sec. 15 repeals AS 47.35.075 which had previously allowed first or second class cities or boroughs to license institutions caring for dependent adults. In the new bill, the decision whether to delegate licensing to a local agency will be made by the state under section 47.33.410(f).

**Sec. 16 provides for transition between the old and new licensing systems.**

Current regulations remain in effect until new regulations are adopted under the new chapter. Ongoing cases started before the effective date of the chapter continue in effect.

**Sec. 17 provides for preparation of new regulations before the effective date of the chapter.** The licensing agencies are authorized to proceed with adoption of regulations needed to implement the changes in the new chapter, so long as the regulations do not take effect before January 1, 1995.

Sec.18 contains clarifying instructions to the publishers of the statutes from the revisor of statutes, to renumber various statutes to conform to this new bill.

Sec. 19 gives section 17 an immediate effective date, so that the agency may proceed immediately with regulation promulgation.

Sec. 20 gives the rest of the bill an effective date of January 1, 1995.

**SENATE BILL NO. 249**

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

**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 1/14/94**  
**Referred: HES, STA, FIN**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to assisted living homes; repealing references to residential**  
2 **facilities for dependent adults; and providing for an effective date."**

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

4 **\* Section 1. AS 47 is amended by adding a new chapter to read:**

5 **CHAPTER 33. ASSISTED LIVING HOMES.**

6 **ARTICLE 1. PURPOSE; APPLICABILITY; SERVICES; OPERATIONS.**

7 **Sec. 47.33.005. PURPOSE. The purpose of this chapter is to**

8 **(1) contribute to the development of a system of care by encouraging**  
9 **the establishment of assisted living homes that provide a homelike environment for**  
10 **elderly persons and persons with a mental or physical disability who need assistance**  
11 **with the activities of daily living;**

12 **(2) promote the establishment of homes that help**

13 **(A) the elderly to age in place; and**

14 **(B) adults with a physical or mental disability to become**

1 integrated into the community and to reach their highest level of functioning;

2 (3) establish standards that will protect residents of assisted living  
3 homes, while at the same time promoting an environment that will encourage resident  
4 growth and independence, without discouraging the establishment and continued  
5 operation of those homes;

6 (4) require that a resident of an assisted living home have an assisted  
7 living plan that identifies the services that will be used to meet the resident's  
8 reasonable wants and needs; and

9 (5) provide a resident of an assisted living home, or the resident's  
10 representative, with the opportunity to participate to the fullest extent possible in the  
11 design and implementation of the resident's assisted living plan and in any decisions  
12 involving the resident's care.

13 **Sec. 47.33.010. APPLICABILITY; DEFINITION OF ASSISTED LIVING**  
14 **HOME.** (a) This chapter applies to assisted living homes operated in the state that  
15 serve three or more adults.

16 (b) "Assisted living home" means a residential facility that

17 (1) serves adults who are not related to the owner of the facility by  
18 blood or marriage;

19 (2) provides housing and food service to its residents; and

20 (3) provides or obtains, or offers to provide or obtain, one or more of  
21 the following for its residents:

22 (A) assistance with the activities of daily living;

23 (B) personal assistance;

24 (C) health-related services.

25 (c) "Assisted living home" does not include

26 (1) a correctional facility;

27 (2) a facility for treatment of alcoholism, regulated under AS 47.37;

28 (3) an emergency shelter;

29 (4) a medical facility, including a nursing home, licensed under  
30 AS 18.20;

31 (5) a program for runaway minors licensed under AS 47.10; or

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(6) a maternity home licensed under AS 47.35.

Sec. 47.33.020. HEALTH-RELATED SERVICES. (a) Nothing in this chapter prohibits an assisted living home resident's self-administration of that resident's medications, unless the resident's assisted living plan specifically provides otherwise.

(b) Notwithstanding a limitation imposed by AS 08 or by a regulation adopted under AS 08, an assisted living home may supervise a resident's self-administration of medications, if self-administration of medications is included in the resident's assisted living plan. That supervision may be performed by any home staff person and may include

- (1) reminding a resident to take medication;
- (2) opening a medication container or prepackaged medication for a resident;
- (3) reading a medication label to a resident;
- (4) observing a resident while the resident takes medication;
- (5) checking a resident's self-administered dosage against the label of the medication container;
- (6) reassuring a resident that the resident is taking the dosage as prescribed; and
- (7) directing or guiding, at the request of the resident, the hand of a resident who is administering the resident's own medications.

(c) An assisted living home may provide intermittent nursing services to a resident who does not require 24-hour nursing services and supervision. Intermittent nursing services may be provided only by a nurse licensed under AS 08.68 or by a nurse aide who has completed a training and competency evaluation program required under 42 U.S.C. 1395i-3.

(d) An individual who is on the staff of an assisted living home and who is neither a nurse licensed under AS 08.68 nor a nurse aide described in (c) of this section may perform a nursing task in that home if

- (1) the authority to perform that nursing task is delegated to that individual by a nurse licensed under AS 08.68; and
- (2) that nursing task is specified in regulations adopted by the Board

1 of Nursing as a task that may be delegated.

2 (e) A resident who needs skilled nursing care may, with the consent of the  
3 assisted living home, arrange for that care to be provided in the home by a nurse  
4 licensed under AS 08.68 if that arrangement does not interfere with the services  
5 provided to other residents.

6 (f) As part of a plan to avoid transfer of a resident from the home for medical  
7 reasons, the home may provide, through the services of a nurse who is licensed under  
8 AS 08.68, 24-hour skilled nursing care to the resident for not more than 45 consecutive  
9 days.

10 (g) If a resident has received 24-hour skilled nursing care for the 45-day limit  
11 set by (f) of this section, the resident or the resident's representative may elect to have  
12 the resident remain in the home without continuation of 24-hour skilled nursing care  
13 if the home agrees to retain the resident after

14 (1) the home and either the resident or the resident's representative  
15 have consulted with the resident's physician;

16 (2) the home and either the resident or the resident's representative  
17 have discussed the consequences and risks involved in the election to remain in the  
18 home; and

19 (3) the portion of the resident's assisted living plan that relates to  
20 health-related services has been revised to provide for the resident's health-related  
21 needs without the use of 24-hour skilled nursing care, and the revised plan has been  
22 reviewed by a registered nurse licensed under AS 08.68 or by the resident's attending  
23 physician.

24 (h) A terminally ill resident may remain in the home if (1) the home and either  
25 the resident or the resident's representative agree that the resident may remain in the  
26 home; and (2) the resident is under the care of a physician who certifies that the needs  
27 of the resident are being met in the home. The time limitation of (f) of this section  
28 does not apply in the case of a terminally ill resident.

29 **Sec. 47.33.030. ADVANCE PAYMENTS.** (a) An assisted living home may  
30 not require a resident or prospective resident of the home or a resident or prospective  
31 resident's representative, to make an advance payment to the home except as security

1 for performance of the contract or as advance rent for the immediately following rental  
2 period. If a home requires a resident or prospective resident to make an advance  
3 payment for security or as advance rent,

4 (1) the home shall promptly deposit the money in a designated trust  
5 account in a financial institution, separate from other money and property of the home;

6 (2) the home may not represent on a financial statement that the  
7 advance payment money is part of the assets of the home;

8 (3) the advance payment money may be used only for the account of  
9 the resident;

10 (4) the home shall notify the resident or the resident's representative,  
11 in writing, of the name and address of the depository in which the advance payment  
12 money is being held; and

13 (5) the home shall provide to the resident or the resident's  
14 representative the terms and conditions under which the advance payment money may  
15 be withheld by the home.

16 (b) An assisted living home shall establish a written policy for the refund of  
17 unused advance payments in the event of the discharge or death of a resident. The  
18 policy must provide that a resident is entitled to a prorated refund of the unused  
19 portion of an advance payment, less reasonable charges for damages to the home  
20 resulting from other than normal use.

21 Sec. 47.33.040. RESIDENTS' MONEY. (a) Except for advance payments  
22 under AS 47.33.030, an assisted living home may not require a resident of the home  
23 to deposit with the home money that belongs to the resident. The provisions of (a) of  
24 this section do not apply to money that constitutes an advance payment under  
25 AS 47.33.030.

26 (b) An assisted living home may accept, for safekeeping and management,  
27 money that belongs to a resident. The home shall establish a written policy for the  
28 management of such money and shall act in a fiduciary capacity with respect to that  
29 money, in accordance with regulations adopted by the licensing agency. A home is  
30 not required to accept money that belongs to a resident.

31 Sec. 47.33.050. TEMPORARY ABSENCE. (a) An assisted living home may

1 agree to reserve a bed for a resident of the home who is temporarily absent from the  
2 home and plans to return to the home. The absent resident, or the resident's  
3 representative, shall notify the home in writing if the resident's plan to return to the  
4 home changes.

5 (b) Until the assisted living home receives written notice that an absent  
6 resident does not intend to return to the home, the home may charge the resident an  
7 agreed-upon daily rate during the resident's absence from the home.

8 Sec. 47.33.060. HOUSE RULES. (a) An assisted living home may establish  
9 house rules, subject to the limitations provided for under this chapter.

10 (b) An assisted living home shall give a copy of the house rules to a  
11 prospective resident or the prospective resident's representative before the prospective  
12 resident's admission to the home, and shall post the house rules in a conspicuous place  
13 in the home.

14 (c) House rules may address

15 (1) times and frequency of use of the telephone;

16 (2) hours for viewing and volume for listening to television, radio, and  
17 other electronic equipment that could disturb other residents;

18 (3) visitors;

19 (4) movement of residents in and out of the home;

20 (5) use of personal property; and

21 (6) use of tobacco and alcohol.

22 (d) An assisted living home may not adopt a house rule that unreasonably  
23 restricts a right of a resident provided for under this chapter or under any other  
24 provision of law.

25 Sec. 47.33.070. RESIDENT FILES. (a) An assisted living home shall  
26 maintain, for each resident of the home, a file that includes

27 (1) the name and birthdate, and, if provided by the resident, the social  
28 security number of the resident;

29 (2) the name, address, and telephone number of the resident's closest  
30 relative, service coordinator, if any, and representative, if any;

31 (3) a statement of what actions, if any, the resident's representative is

1 authorized to take on the resident's behalf;

2 (4) a copy of the resident's assisted living plan;

3 (5) a copy of the admission contract between the home and the  
4 resident;

5 (6) the physician's statement required under AS 47.33.200(b), and any  
6 subsequent physicians' statements;

7 (7) a notice, as required under AS 47.33.030, regarding the depository  
8 in which the resident's advance payment money is being held;

9 (8) written acknowledgement by the resident or the resident's  
10 representative that the resident has received a copy of and has read, or has been read  
11 the

12 (A) resident's rights under AS 47.33.300;

13 (B) resident's right to pursue a grievance under AS 47.33.340;

14 (C) resident's right to protection from retaliation under  
15 AS 47.33.350;

16 (D) provisions of AS 47.33.510, regarding immunity; and

17 (E) home's house rules;

18 (9) an acknowledgement and agreement relating to home safekeeping  
19 and management of the resident's money, as required by AS 47.33.040;

20 (10) a copy of the resident's living will, if any; and

21 (11) a copy of any power of attorney or other written designation of  
22 an agent, representative, or surrogate by the resident.

23 (b) An assisted living home shall retain a resident's file for at least one year  
24 after the resident is discharged from the home.

25 Sec. 47.33.080. CLOSURE OR RELOCATION; CHANGE OF MAILING  
26 ADDRESS. (a) No later than 90 days before the voluntary closing or relocation of  
27 an assisted living home, the home shall provide written notice of the closure or  
28 relocation to the licensing agency, each resident of the home, all representatives of  
29 residents, and all service coordinators for residents.

30 (b) No later than 14 days before a change of an assisted living home's mailing  
31 address, the home shall provide written notice of the change to the licensing agency,

1 each resident of the home, all representatives of residents, and all service coordinators  
2 for residents.

3 Sec. 47.33.090. RATE INCREASE. An assisted living home may not increase  
4 the rate charged for services provided by the home unless the home notifies each  
5 resident or the resident's representative of the increase at least 30 days before the  
6 increase is to take effect.

7 ARTICLE 2. ADMISSIONS; ASSISTED LIVING PLAN.

8 Sec. 47.33.200. ADMISSION. (a) An individual may not be admitted to an  
9 assisted living home without that individual's consent, or, if the individual is not  
10 competent, the consent of the individual's representative.

11 (b) If an individual is being admitted for health problems, at the time of or  
12 within 30 days after that individual's admission to the home, the home shall obtain,  
13 and place in that resident's file, a physician's statement regarding that resident.

14 Sec. 47.33.210. ADMISSION CONTRACTS. (a) An individual may not be  
15 admitted as a resident of an assisted living home unless a representative of the home  
16 and either the individual or the individual's representative sign an admission contract  
17 that complies with the provisions of this section. Upon signing of the admission  
18 contract, the home shall give the resident and the resident's representative, if any, a  
19 copy of the contract and place a copy in the resident's file.

20 (b) An admission contract must

21 (1) specifically describe the services and accommodations to be  
22 provided by the assisted living home;

23 (2) set out the rates charged by the home;

24 (3) specifically describe the rights, duties, and obligations of the  
25 resident, other than those specified in this chapter;

26 (4) set out the policies and procedures for discharge of a resident as  
27 provided for in this chapter;

28 (5) state the amount and purpose of any advance payments required by  
29 the home; and

30 (6) set out the home's policy for refund of advance payments in the  
31 event of the discharge or death of the resident.

1           Sec. 47.33.220. ASSISTED LIVING PLAN REQUIRED. An assisted living  
2 home shall ensure that an assisted living plan for a resident of the home is developed,  
3 and approved by the resident or the resident's representative, within 30 days after the  
4 resident was admitted to the home. The assisted living plan must be developed by the  
5 resident or the resident's representative with participation from

- 6                   (1) the resident's service coordinator, if any;
- 7                   (2) representatives of providers of services to the resident; and
- 8                   (3) the administrator of the home.

9           Sec. 47.33.230. ASSISTED LIVING PLAN CONTENTS; DISTRIBUTION.

10          (a) An assisted living plan for a resident of an assisted living home must

11                   (1) promote the resident's participation in the community and increased  
12 independence through training and support, in order to provide the resident with an  
13 environment suited to the resident's needs and best interests; and

14                   (2) recognize the shared responsibility of the home and the resident or  
15 the resident's representative to evaluate the risks associated with each option when  
16 making decisions pertaining to the resident's abilities, preferences, and service needs.

17          (b) An assisted living plan for a resident must identify and describe

18                   (1) the resident's specific strengths and limitations in performing the  
19 activities of daily living;

20                   (2) any physical disabilities and impairments, and the medical, health,  
21 emotional, mental health, or other problems that are relevant to the services needed by  
22 the resident;

23                   (3) the resident's preference in roommates, living environment, food,  
24 recreational activities, religious affiliation, and relationships and visitation with friends,  
25 family members, and others;

26                   (4) any specific activities of daily living with which the resident needs  
27 assistance;

28                   (5) how assistance with the activities of daily living will be provided  
29 or arranged for by the home;

30                   (6) the frequency of the resident's training for independent living, if  
31 habilitation is part of the plan;

1 (7) the resident's need for personal assistance and how those needs will  
2 be met by home staff or another service provider from the community;

3 (8) the resident's need for health-related services and how that need  
4 will be met;

5 (9) the resident's reasonable wants and the services that will be used  
6 to meet those wants.

7 (c) The assisted living home shall ensure that a registered nurse licensed under  
8 AS 08.68 reviews the portion of an assisted living plan that describes how the  
9 resident's need for health-related services will be met.

10 (d) An assisted living home shall prepare a resident's assisted living plan in  
11 writing, in language that can be understood by the resident.

12 (e) If an individual's reasonable wants and needs can be met by a particular  
13 assisted living home and a decision is made to admit the individual to that home, the  
14 assisted living plan shall be approved, dated, and signed by the administrator of that  
15 home and either the resident or the resident's representative.

16 (i) The assisted living plan shall be retained by the home in the resident's file.  
17 The home shall provide a copy of the plan to the resident and to the resident's  
18 representative, if any.

19 Sec. 47.33.240. EVALUATION OF ASSISTED LIVING PLAN. (a) An  
20 assisted living home resident or the resident's representative, and the home  
21 administrator or the administrator's designee, shall evaluate the resident's assisted  
22 living plan, determine whether the plan is meeting the resident's reasonable wants and  
23 needs, and revise the plan if necessary. At the request of the resident or the resident's  
24 representative, the resident's service coordinator, if any, and family members may  
25 participate in the evaluation. For a resident admitted for health problems, the  
26 evaluation must be done at three-month intervals. For a resident admitted for reasons  
27 other than health problems, the evaluation must be done at least at one-year intervals,  
28 and must be done more often if requested by the resident, the resident's representative,  
29 or the home.

30 (b) The administrator or the administrator's designee shall (1) document the  
31 results of the evaluation in the resident's record; (2) sign and date any revisions to the

1 resident's assisted living plan; (3) place a copy of the revisions in the resident's file;  
2 and (4) provide the resident and the resident's representative, if any, with a copy of  
3 the revisions.

4 ARTICLE 3. RESIDENTS' RIGHTS.

5 Sec. 47.33.300. RESIDENTS' RIGHTS. (a) A resident of an assisted living  
6 home has the right to

7 (1) live in a safe and sanitary environment;

8 (2) be treated with consideration and respect for personal dignity,  
9 individuality, and the need for privacy, including

10 (A) privacy in a medical examination or health-related  
11 consultation;

12 (B) privacy in the resident's room or portion of a room;

13 (C) privacy in bathing and toileting, except for any assistance  
14 in those activities that is specified in the resident's assisted living plan; and

15 (D) privacy in the maintenance of personal possessions and the  
16 right to keep at least one cabinet or drawer locked;

17 (3) possess and use personal clothing and other personal property,  
18 unless the home can demonstrate that the possession or use of certain personal property  
19 would be unsafe or an infringement of the rights of other residents;

20 (4) engage in private communications, including

21 (A) receiving and sending unopened correspondence;

22 (B) having access to a telephone, or having a private telephone  
23 at the resident's own expense; and

24 (C) visiting with persons of the resident's choice, subject to  
25 visiting hours established by the home;

26 (5) close the door of the resident's room at any time, including during  
27 visits in the room with guests or other residents;

28 (6) participate in and benefit from community services and activities  
29 to achieve the highest possible level of independence, autonomy, and interaction with  
30 the community;

31 (7) manage the resident's own money;

- 1 (8) participate in the development of the resident's assisted living plan;  
2 (9) share a room with a spouse if both are residents of the home;  
3 (10) have a reasonable opportunity to exercise at least several times a  
4 week, and to go outdoors at regular and frequent intervals, when weather permits;  
5 (11) exercise civil and religious liberties;  
6 (12) have access to adequate and appropriate health care and health  
7 care providers of the resident's own choosing, consistent with established and  
8 recognized standards within the community;  
9 (13) self-administer the resident's own medications, unless specifically  
10 provided otherwise in the resident's assisted living plan;  
11 (14) receive meals that are consistent with religious or health-related  
12 restrictions;  
13 (15) receive the prior notice of relocation of the home or involuntary  
14 discharge of the resident required by AS 44.47.080 and 44.47.360, respectively;  
15 (16) present to the home grievances and recommendations for change  
16 in the policies, procedures, or services of the home;  
17 (17) have access to and participate in advocacy or special interest  
18 groups;  
19 (18) intervene or participate in, or refrain from participating in,  
20 adjudicatory proceedings held under this chapter, unless provided otherwise by other  
21 law; and  
22 (19) reasonable access to home files relating to the resident, subject to  
23 the constitutional right of privacy of other residents of the home.

24 (b) An assisted living home may not establish or apply a policy, procedure, or  
25 rule that is inconsistent with or contrary to a right provided by this section or by other  
26 law.

27 Sec. 47.33.310. NOTICE OF RIGHTS. (a) At the time an individual is  
28 admitted as a resident of an assisted living home, the home shall provide the resident  
29 and the resident's representative, if any, with a copy of the rights set out in  
30 AS 47.33.300. The home shall obtain from the resident or the resident's representative  
31 a signed and dated acknowledgement stating that the resident has read or been read the

1 rights, understands the rights, and has had any questions about the rights answered by  
2 the home.

3 (b) An assisted living home shall post in a prominent place in the home

4 (1) a copy of the rights set out in AS 47.33.300;

5 (2) the name, address, and phone number of the long term care  
6 ombudsman hired under AS 44.21.231 and, if relevant to residents, of the advocacy  
7 agency for persons with a developmental disability or mental illness;

8 (3) the telephone number of an information or referral service for  
9 vulnerable adults; and

10 (4) a copy of the grievance procedure established under AS 47.33.340.

11 Sec. 47.33.320. ACCESS TO ASSISTED LIVING HOME. An assisted living  
12 home shall allow advocates, representatives of community organizations, and  
13 representatives of community legal services programs access to the home, at reasonable  
14 times, to

15 (1) visit with residents of the home and to make personal, social, and  
16 legal services available to residents;

17 (2) distribute educational and informational materials to advise residents  
18 and their representatives of their rights; and

19 (3) assist residents or residents' representatives in asserting legal rights  
20 or claims.

21 Sec. 47.33.330. PROHIBITIONS. (a) An assisted living home, including staff  
22 of the home, may not

23 (1) deprive a resident of the home of the rights, benefits, or privileges  
24 guaranteed to the resident by law;

25 (2) enter a resident's room without first obtaining permission, except

26 (A) during regular, previously announced, fire, sanitation, or  
27 other licensing inspections;

28 (B) when a condition or situation presents an imminent danger;

29 (C) as required by the resident's assisted living

30 plan; or

31 (D) for other vital health or safety reasons;

1 (3) impose religious beliefs or practices upon a resident or require a  
2 resident to attend religious services;

3 (4) place a resident under physical restraint unless the resident's own  
4 actions present an imminent danger to the resident or others;

5 (5) place a resident under chemical restraint; this paragraph does not  
6 prevent a resident from voluntarily taking tranquilizers, or other medication, prescribed  
7 by a licensed physician;

8 (6) compel a resident to perform services for the home, except as  
9 contracted for by the resident and the home or as provided for in the resident's assisted  
10 living plan; or

11 (7) restrain, interfere with, coerce, discriminate against, or retaliate  
12 against a resident for asserting a right specified by this chapter or by other law.

13 (b) An assisted living home may not physically restrain a resident unless the  
14 home has a written physical restraint procedure that has been approved by the licensing  
15 agency. If an assisted living home physically restrains a resident because the  
16 resident's own actions present an imminent danger to the resident or others, the home  
17 shall immediately seek assistance from appropriate medical, emergency, or police  
18 personnel and shall notify the resident's representative, if any. The home shall  
19 terminate the physical restraint as soon as the resident no longer presents an imminent  
20 danger.

21 (c) An owner, administrator, employee, or agent of an assisted living home  
22 may not act as a representative of a resident.

23 Sec. 47.33.340. RESIDENT GRIEVANCE PROCEDURE. (a) An assisted  
24 living home shall establish a written grievance procedure for handling complaints of  
25 residents of the home. At the time an individual is admitted as a resident of an  
26 assisted living home, the home shall give a copy of the grievance procedure to the  
27 resident and the resident's representative, if any.

28 (b) The grievance procedure established under this section shall provide that  
29 a resident and the resident's representative have the right to

30 (1) present both a written and an oral explanation of the resident's  
31 grievance;

1 (2) have an advocate of the resident's choice, and the resident's  
2 representative, if any, attend meetings concerning the resident's grievance; and

3 (3) be notified in writing, within 30 days after the filing of the  
4 grievance, of the final decision of the home regarding the grievance.

5 Sec. 47.33.350. RETALIATION AGAINST HOME RESIDENT. (a) An  
6 assisted living home may not take retaliatory action against a resident of that home if  
7 the resident or the resident's representative

8 (1) exercises a right provided by this chapter or by other law;

9 (2) appears as a witness, or refuses to appear as a witness, in an  
10 adjudicatory proceeding regarding the home;

11 (3) files a civil action alleging a violation of this chapter; or

12 (4) claims a violation of this chapter before a state or federal agency  
13 having jurisdiction over the home or its employees.

14 (b) Discharge of a resident by an assisted living home within 60 days after the  
15 resident engages in an activity described in (a) of this section creates a rebuttable  
16 presumption that the discharge was retaliatory.

17 (c) At the time, or before, an individual is admitted as a resident of an assisted  
18 living home, the home shall give the resident and the resident's representative, if any,  
19 written notice of the protection from retaliation provided under this section.

20 Sec. 47.33.360. INVOLUNTARY DISCHARGE. (a) An assisted living home  
21 may not discharge a resident of the home against the resident's will, except

22 (1) for medical reasons;

23 (2) for engaging in a documented pattern of conduct that is harmful to  
24 other residents or to home staff;

25 (3) for violation of the terms of the admission contract, including  
26 failure to pay costs incurred under the contract;

27 (4) when emergency discharge is ordered by the resident's physician;

28 (5) when the home is closing; or

29 (6) when the home can no longer provide or arrange for services in  
30 accordance with the resident's needs and the resident's assisted living plan.

31 (b) At least 30 days before discharging a resident under (a)(2), (3), (5), or (6)

1 of this section, the assisted living home shall provide written notice of the proposed  
2 discharge to the resident or the resident's representative, and to the resident's service  
3 coordinator if any. The notice shall state

4 (1) the basis for the discharge;

5 (2) the resident's right to contest the discharge, in the manner provided  
6 in the resident's admission contract; and

7 (3) the time and date of the case conference required under (c) of this  
8 section.

9 (c) Before discharging a resident under (a)(2), (3), (5), or (6) of this section,  
10 the assisted living home shall hold a case conference in which the resident; the  
11 resident's representative, if any; the resident's advocate, if any; the resident's service  
12 coordinator, if any; the home administrator; and appropriate care providers determine  
13 the appropriateness of the discharge based on an assessment of

14 (1) the resident's needs and preferences;

15 (2) the ability of the assisted living home, alternative facilities, family  
16 members, friends, or other individuals or agencies to provide the care and services the  
17 resident requires;

18 (3) the benefits and risks involved with alternatives to discharge and  
19 the shared responsibility of the assisted living home and the resident in assuming risks  
20 associated with the alternative and

21 (4) the proximity of alternative facilities to the resident's family and  
22 friends.

23 (d) If a home discharges a resident under this section, the home shall cooperate  
24 with the resident; the resident's service coordinator, if any; and the resident's  
25 representative, if any, in making arrangements to relocate the resident.

#### 26 ARTICLE 4. LICENSING.

27 Sec. 47.33.400. LICENSE REQUIRED. (a) A person may not maintain or  
28 operate an assisted living home that is subject to this chapter unless that home is  
29 licensed under this chapter.

30 (b) A person may not use the term "assisted living home" or "assisted living  
31 facility" in connection with services to be provided or obtained unless the home or

1 facility meets the definition of an assisted living home in AS 47.33.010(b).

2 (c) To be licensed as an assisted living home, a facility must meet the  
3 licensure requirements of this chapter and of regulations adopted under this chapter.

4 (d) Nothing in this chapter prohibits an assisted living home that is licensed  
5 under this chapter and that serves five or fewer residents from using the term "adult  
6 foster home" or "assisted living foster home" in connection with that facility.

7 Sec. 47.33.410. LICENSING AGENCY. (a) The Department of Health and  
8 Social Services is the licensing agency responsible for licensing assisted living homes  
9 that will be providing care primarily to individuals with a mental or developmental  
10 disability.

11 (b) The Department of Administration is the licensing agency responsible for  
12 licensing assisted living homes that will be providing care primarily to individuals who  
13 have a physical disability, who are elderly, or who suffer from dementia, but who are  
14 not diagnosed as chronically mentally ill.

15 (c) The Department of Administration and the Department of Health and  
16 Social Services shall confer and jointly determine, in accordance with regulations, the  
17 appropriate licensing agency for an assisted living home

18 (1) that, at the time of application for a license, appears to meet  
19 the criteria in both (a) and (b) of this section;

20 (2) for which, at the time of application for a license, the  
21 appropriate licensing agency is not clear under the criteria in (a) and (b) of this  
22 section;

23 (3) that, during the term of a license issued under this chapter,  
24 wishes to relinquish the license issued by one licensing agency and replace the  
25 license with one issued by the other licensing agency; or

26 (4) that, at the time of the assisted living home's license  
27 renewal under this chapter, is described in (1), (2), or (3) of this subsection.

28 (d) A licensing agency shall

29 (1) establish, by regulation, requirements and standards for licensure  
30 and renewal of a license under this chapter;

31 (2) license assisted living homes in accordance with this chapter and

1 regulations adopted under this chapter;

2 (3) investigate license applicants and licensees for compliance with this  
3 chapter; and

4 (4) enforce the standards established by this chapter and regulations  
5 adopted under this chapter.

6 (e) The Department of Administration and the Department of Health and  
7 Social Services shall jointly adopt regulations to implement the provisions of (c) of this  
8 section, including regulations providing procedures and standards for determining the  
9 appropriate licensing agency for an assisted living home and for relinquishing and  
10 replacing a license issued under this chapter.

11 (f) Under procedures and standards of operation established by the licensing  
12 agency by regulation, a licensing agency may contract with private or municipal  
13 agencies to investigate and make recommendations to the licensing agency for the  
14 licensing of assisted living homes.

15 Sec. 47.33.420. STANDARD FORMS. The Department of Health and Social  
16 Services and the Department of Administration shall cooperatively develop standard  
17 forms that assisted living homes may use to comply with the requirements of this  
18 chapter.

19 Sec. 47.33.430. AUTHORITY OF STATE AGENCIES TO IMPOSE  
20 ADDITIONAL REQUIREMENTS. The provisions of this chapter do not preclude  
21 a state agency from imposing additional requirements or standards on an assisted living  
22 home in order for the home to receive state or federal payment for services.

23 ARTICLE 5. COMPLAINT, INVESTIGATION, AND ADJUDICATORY  
24 PROCEDURES; SANCTIONS; PENALTIES.

25 Sec. 47.33.500. COMPLAINT. (a) A person who believes that a provision  
26 of this chapter or of a regulation adopted under this chapter has been violated may file  
27 a complaint with the appropriate licensing agency.

28 (b) The licensing agency shall investigate a complaint filed under this section  
29 unless the agency reasonably concludes that the complaint is without merit.

30 (c) Unless disclosure is required by court order, the licensing agency may not  
31 disclose the identity of a complainant, or of a resident on whose behalf a complaint

1 is filed, without the consent of the complainant or the resident or the resident's  
2 representative.

3 Sec. 47.33.510. IMMUNITY. A person who files a complaint concerning a  
4 suspected violation of this chapter or of a regulation adopted under this chapter, or  
5 who testifies in an administrative or judicial proceeding arising from a complaint  
6 concerning a suspected violation of this chapter or of a regulation adopted under this  
7 chapter, is immune from civil liability for the filing or testifying unless the person  
8 acted in bad faith or with malicious purpose.

9 Sec. 47.33.520. INVESTIGATION. (a) A licensing agency may investigate  
10 an assisted living home at any time to determine whether the home is in compliance  
11 with this chapter and regulations adopted under this chapter.

12 (b) An assisted living home that is the subject of an investigation shall give  
13 the licensing agency access to

- 14 (1) the home;  
15 (2) all records relating to the operation of the home;  
16 (3) all resident files; and  
17 (4) the residents and employees of the home.

18 (c) The licensing agency shall prepare a written report of the investigation that  
19 summarizes its findings, and shall provide a copy of the report to the assisted living  
20 home that is the subject of the investigation and to the complainant, if any, if the  
21 complainant requests a copy.

22 (d) The assisted living home may submit to the licensing agency a written  
23 response to the investigation report. The licensing agency shall retain the home's  
24 response with the record of the complaint.

25 (e) Except as otherwise provided in AS 47.33.500(c), completed investigation  
26 reports and responses from homes are public records.

27 Sec. 47.33.530. NOTICE OF VIOLATION. (a) If the licensing agency  
28 determines that an assisted living home has violated a provision of this chapter or of  
29 a regulation adopted under this chapter, the licensing agency shall prepare a written  
30 notice of violation that contains

- 31 (1) a description of the violation;

- 1 (2) a citation to the statute or regulation that has been violated;  
2 (3) an order requiring the home to correct the violation by the time  
3 specified in the order, not to exceed 90 days after the date the home receives the  
4 notice of violation;  
5 (4) a statement of the requirement for filing a report of compliance  
6 under AS 47.33.540;  
7 (5) notice of the sanctions that may be imposed under this chapter if  
8 the home fails to timely file a report of compliance or fails to correct the violation;  
9 and  
10 (6) notice of the right to apply for a variance, if applicable under  
11 licensing agency regulations.

12 (b) The licensing agency shall serve the notice of violation on the home in  
13 person, or by certified mail, return receipt requested.

14 Sec. 47.33.540. REPORT OF COMPLIANCE. (a) After correcting a violation  
15 described in a notice of violation served under AS 47.33.530, an assisted living home  
16 shall submit to the licensing agency a report of compliance regarding the correction.

17 (b) Each licensing agency shall adopt regulations specifying the contents of  
18 and establishing procedures for reports of compliance, including the time period for  
19 submission to the licensing agency under (a) of this section.

20 Sec 47.33.550. ADMINISTRATIVE SANCTIONS. (a) A licensing agency  
21 may revoke an assisted living home license, deny renewal of an assisted living home  
22 license, suspend operations of an assisted living home, suspend admissions to an  
23 assisted living home, or assess an administrative fine, as the agency considers  
24 appropriate, on one or more of the following grounds:

25 (1) a violation of a provision of this chapter, a regulation adopted under  
26 this chapter, an order in a notice of violation issued under this chapter, or a term of  
27 a license issued under this chapter;

28 (2) a criminal conviction of an administrator of an assisted living home  
29 if the conviction

30 (A) is for an offense involving a resident of the home;

31 (B) is a felony; or

1 (C) is a misdemeanor involving alcohol, a controlled substance,  
2 an imitation controlled substance, or physical or sexual abuse;

3 (3) obtaining, retaining, or attempting to obtain or retain a license under  
4 this chapter by fraud or misrepresentation.

5 (b) An administrative fine assessed under this section may not exceed \$500 a  
6 day for each day that a violation continues, and may not exceed a total of \$5,000 for  
7 a violation.

8 (c) Before imposing an administrative sanction under (a) of this section, the  
9 licensing agency shall give the assisted living home a written notice of the imposition  
10 of administrative sanction. The notice must contain a form for requesting a hearing  
11 under (d) of this section, and must describe

- 12 (1) each sanction to be imposed;
- 13 (2) the violation that is the basis of each sanction; and
- 14 (3) the home's right to request a hearing to contest the sanctions.

15 (d) An assisted living home may contest a licensing agency's decision to  
16 impose an administrative sanction by filing a written request for a hearing, on the form  
17 provided by the licensing agency, no later than 10 days after receipt of the notice of  
18 administrative sanction.

19 (e) Unless an administrative sanction is related to a violation that presents an  
20 imminent danger to the health or safety of the residents of an assisted living home, the  
21 sanction may not be imposed until

- 22 (1) the time period for requesting a hearing under (d) of this section has  
23 passed without a hearing being requested; or
- 24 (2) the licensing agency renders a final decision following a hearing  
25 requested under (d) of this section.

26 (f) If an assisted living home requests a hearing under (d) of this section the  
27 hearing shall be held within 60 days after the licensing agency receives the request.  
28 The department's decision following a hearing under this section is a final  
29 administrative order.

30 (g) If an assisted living home does not request a hearing under (d) of this  
31 section, the licensing agency's notice of administrative sanction constitutes a final

1 administrative order, for which the licensing agency may seek the court's assistance  
2 in enforcing.

3 (h) A licensing agency shall provide notice of the agency's final action  
4 regarding imposition of an administrative sanction on an assisted living home to

- 5 (1) each resident of the home;
- 6 (2) the agencies that provide treatment to the residents;
- 7 (3) the residents' service coordinators; and
- 8 (4) adult protective services.

9 (i) Imposition of an administrative sanction under this section does not  
10 preclude imposition of a criminal penalty under AS 47.33.570.

11 Sec. 47.33.560. ADMINISTRATIVE PROCEDURE. (a) Except as  
12 otherwise provided in this chapter, administrative proceedings involving the denial,  
13 limitation, suspension, or revocation of a license or the assessment of an administrative  
14 fine under this chapter shall be conducted under AS 44.62 (Administrative Procedure  
15 Act).

16 (b) An administrative hearing held under this chapter shall be open to the  
17 public unless the hearing officer determines that the hearing should be closed to protect  
18 the privacy of a resident of an assisted living home.

19 (c) A resident may intervene as a party in an adjudicatory proceeding held  
20 under this chapter if the home in which that individual resides is a party to the  
21 proceeding.

22 (d) At least 30 days before a hearing is held under this chapter, the licensing  
23 agency shall give notice of the hearing to each resident of the assisted living home that  
24 is the subject of the hearing.

25 Sec. 47.33.570. CRIMINAL PENALTY. A person who violates  
26 AS 44.33.400(a) or (b) is guilty of a class B misdemeanor.

27 ARTICLE 6. GENERAL PROVISIONS.

28 Sec. 47.33.910. FEES. A licensing agency may charge and collect fees for  
29 application and licensure under this chapter.

30 Sec. 47.33.920. REGULATIONS. The commissioner of health and social  
31 services and the commissioner of administration each may adopt regulations to carry

1 out the provisions of this chapter, including regulations regarding licensure and  
2 renewal requirements, license application and renewal procedures; application and  
3 license fees; types, duration, renewal, and transferability of licenses; staffing and home  
4 operation standards; and variances to licensure and operating standards. Regulations  
5 adopted under this chapter may provide for the waiver or modification of the  
6 requirements of this chapter for homes with fewer than six residents.

7 Sec. 47.33.990. DEFINITIONS. In this chapter,

8 (1) "activities of daily living" means walking, eating, dressing, bathing,  
9 toileting, and transfer between a bed and a chair;

10 (2) "administrator" means an individual who has general administrative  
11 charge and oversight of an assisted living home;

12 (3) "adult" means an individual 18 years of age or older who is not a  
13 ward of the state under AS 47.10.080;

14 (4) "advocate" means a public or private officer, agency, or  
15 organization designated by federal or state statute, or a state plan developed under a  
16 federal or state statute, to represent the interests of and speak on behalf of a resident  
17 of an assisted living home;

18 (5) "aging in place" means choosing to remain in a familiar living  
19 environment and manage the risks associated with the physical or mental decline that  
20 can occur with increasing age;

21 (6) "assisted living home" has the meaning given in AS 47.33.010;

22 (7) "assisted living plan" means a written description of

23 (A) an individual's functional capabilities;

24 (B) the individual's needs and preferences for assistance with  
25 the activities of daily living; and

26 (C) the services to be provided to meet the individual's  
27 reasonable wants and needs;

28 (8) "controlled substance" has the meaning given in AS 11.71.900;

29 (9) "health-related services" means services described in  
30 AS 47.33.020(a) - (g);

31 (10) "home" means an assisted living home;

1 (11) "imitation controlled substance" has the meaning given in  
2 AS 11.73.099;

3 (12) "imminent danger" means a danger that could reasonably be  
4 expected to cause death or serious physical harm to a resident;

5 (13) "individual with a developmental disability" has the meaning given  
6 the term "person with a developmental disability" in AS 47.80.900;

7 (14) "instrumental activities of daily living" means doing laundry,  
8 cleaning of living areas, food preparation, managing money and conducting business  
9 affairs, using public transportation, writing letters, obtaining appointments, using the  
10 telephone, and engaging in recreational or leisure activities;

11 (15) "licensing agency" means the state agency given authority under  
12 AS 47.33.410 to license an assisted living home;

13 (16) "personal assistance" means the provision by an assisted living  
14 home of one or more of the following personal services to a resident of the home:

15 (A) assisting a resident in obtaining supportive services as  
16 provided for in the resident's assisted living plan;

17 (B) assisting a resident in obtaining instrumental activities of  
18 daily living, as provided for in the resident's assisted living plan;

19 (C) being aware of a resident's general whereabouts while the  
20 resident is traveling independently in the community;

21 (D) monitoring a resident's activities while on the home  
22 premises to provide for the resident's and others' safety and well-being;

23 (17) "physician's statement" means a written statement by an  
24 individual's primary physician that includes

25 (A) a medical history and physical, not older than six months,  
26 of the individual;

27 (B) a listing of the individual's complete current medicine  
28 regimen; and

29 (C) a statement of current therapy regimen necessary to  
30 maintain or increase the individual's functioning, mobility, or independence;

31 (18) "resident" means an adult who has been admitted to and resides

1 in an assisted living home;

2 (19) "representative" means a guardian, conservator, attorney in fact,  
3 or other person designated by a court, or in writing by a legally competent individual,  
4 to act on behalf of that individual;

5 (20) "service coordinator" means an individual who is responsible for

6 (A) coordinating the services of community agencies that  
7 provide services to a resident of an assisted living home;

8 (B) participating in inter-agency case management for a  
9 resident; or

10 (C) planning for the placement of an individual in an assisted  
11 living home;

12 (21) "supportive services" means recreational and leisure activities,  
13 transportation, social services, legal services, financial management services,  
14 educational and vocational services, medical, dental, and other health care services,  
15 habilitation or rehabilitation services, respite services, case management, day care, and  
16 other services required to meet a resident's needs.

17 \* Sec. 2. AS 36.30.850(b)(19) is amended to read:

18 (19) contracts for home health care provided under regulations  
19 adopted by the Department of Health and Social Services and for adult residential  
20 [AND FOSTER] care services provided under regulations adopted by the Department  
21 of Health and Social Services or by the Department of Administration;

22 \* Sec. 3. AS 44.21.240(2) is amended to read:

23 (2) "long term care facility" means an assisted living home [A  
24 FOSTER HOME OR OTHER RESIDENTIAL FACILITY FOR DEPENDENT  
25 ADULTS] that is required to be licensed under AS 47.33 [AS 47.35] and a nursing  
26 home as defined in AS 08.70.180.

27 \* Sec. 4. AS 44.62.330(a) is amended by adding a new paragraph to read:

28 (59) the Department of Health and Social Services and the Department  
29 of Administration as to the licensing and regulation of assisted living homes under  
30 AS 47.33.

31 \* Sec. 5. AS 47.35.010(a) is amended to read:

1 (a) The department may  
2 (1) license and supervise boarding homes, foster homes, group homes,  
3 nurseries, and institutions caring for children [AND FOSTER HOMES, GROUP  
4 HOMES AND INSTITUTIONS CARING FOR DEPENDENT ADULTS];  
5 (2) investigate and supervise licensees;  
6 (3) enforce the standards established by it;  
7 (4) contract with private or municipal agencies to investigate and make  
8 recommendations to the department for the licensing and supervision of boarding  
9 homes, foster homes, group homes, nurseries, and institutions caring for children  
10 [AND FOSTER HOMES, GROUP HOMES AND INSTITUTIONS CARING FOR  
11 DEPENDENT ADULTS] under procedures and standards of operation established by  
12 the department; contracts with private agencies under this paragraph are governed by  
13 AS 36.30 (State Procurement Code).

14 \* Sec. 6. AS 47.35.020 is amended to read:

15 Sec. 47.35.020. LICENSE OR PERMIT REQUIRED FOR CERTAIN CARE  
16 FACILITIES. A person may not, without a license or permit to do so,

17 (1) maintain or conduct, for more than 90 days, a boarding home, foster  
18 home, group home, institution, or other place for the regular reception or care of  
19 children under 16 years of age[, OR A FOSTER HOME, GROUP HOME, OR  
20 INSTITUTION FOR THE CARE OF DEPENDENT ADULTS]; or

21 (2) engage in the business of receiving or caring for children under 14  
22 years of age, with or without compensation, in a nursery in which five or more  
23 children not related by blood or marriage, or legal adoption, to the owner, operator, or  
24 manager of the business are lodged.

25 \* Sec. 7. AS 47.35.035(a) is amended to read:

26 (a) A person may not be licensed under this chapter to maintain or conduct a  
27 foster home for children under the age of 18 unless the person has completed an  
28 orientation for foster parents approved by the department. An orientation required  
29 under this subsection must provide information about foster care regulations, policies,  
30 and procedures; practical instruction about the realities of caring for a child who is  
31 placed in a foster home; and other appropriate information.

- 1 \* **Sec. 8.** AS 47.35.040(e) is amended to read:  
2 (e) The department shall give written notice of revocation or modification under  
3 (b) of this section 30 days before the effective date of the action. However, if the  
4 health or well-being of children [OR DEPENDENT ADULTS] is in jeopardy, the  
5 revocation or modification action is effective immediately upon the issuance of written  
6 notice by the department.
- 7 \* **Sec. 9.** AS 47.35.060 is amended to read:  
8 Sec. 47.35.060. RECORDS REQUIRED. Each licensee or permit holder shall  
9 keep records regarding each child [OR ADULT] in its control and care, or placed by  
10 it, that the department prescribes, and shall report to the department the facts that the  
11 department requires with reference to the children [OR ADULTS]. All records  
12 regarding individuals placed for care in an institution or home under this chapter are  
13 confidential and shall be safeguarded from improper disclosure by the agency or  
14 department.
- 15 \* **Sec. 10.** AS 47.35.900(3) is amended to read:  
16 (3) "facility" means the administration, program, and physical plant of  
17 a nursery caring for children, or a foster home, group home, or institution caring for  
18 children [OR DEPENDENT ADULTS];
- 19 \* **Sec. 11.** AS 47.80.140 is amended to read:  
20 Sec. 47.80.140. LICENSING AND CERTIFICATES OF NEED. (a) A person  
21 may not establish or operate a residential facility without first obtaining a license to  
22 do so. The department by regulation shall provide for licensing of residential facilities  
23 that are not within the licensing provisions of AS 18.20.010 - 18.20.130, AS 47.33,  
24 AS 47.35.010 - 47.35.080 or other law requiring state licensing of such facilities.  
25 Regulations of the department must include but need not be limited to (1) standards  
26 of operation promoting and protecting public health, safety, and welfare, and (2)  
27 procedures governing applications for and issuance of licenses and duration, renewal,  
28 and revocation of licenses for cause. The department may at reasonable times inspect  
29 and examine residential facilities licensed under this subsection for conformity with  
30 licensing requirements.  
31 (b) A certificate of need is required as a prerequisite for licensing a residential

1 facility established after July 1, 1978 and not otherwise provided for in AS 18.07.031 -  
2 18.07.111. A certificate shall be issued and regulated in the same manner as provided  
3 in AS 18.07.031 - 18.07.111 for certificates of need for health care facilities. This  
4 subsection does not apply to an assisted living home licensed under AS 47.33.

5 \* Sec. 12. AS 47.35.075 is repealed.

6 \* Sec. 13. TRANSITION. Regulations relating to licensure of residential facilities for  
7 dependent adults, adopted by the Department of Health and Social Services under authority  
8 of AS 47.35 and in effect before January 1, 1995, remain in effect, and may be implemented  
9 and enforced by the Department of Health and Social Services, until regulations relating to  
10 assisted living homes are adopted by the Department of Health and Social Services and the  
11 Department of Administration under AS 47.33, and take effect. Litigation, hearings,  
12 investigation, and other proceedings pending under a law amended or repealed by this Act,  
13 or in connection with functions transferred by this Act, continue in effect and may be  
14 continued and completed notwithstanding a transfer, amendment, or repeal provided for in this  
15 Act.

16 \* Sec. 14. REGULATIONS. Notwithstanding sec. 16 of this Act, the Department of  
17 Health and Social Services and the Department of Administration may proceed to adopt  
18 regulations necessary to implement the changes made by this Act. The regulations may not  
19 take effect before January 1, 1995.

20 \* Sec. 15. Section 14 of this Act takes effect immediately under AS 01.10.070(c).

21 \* Sec. 16. Sections 1 - 13 of this Act take effect January 1, 1995.

# FISCAL NOTE

No. 2

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

Bill Version: SB 249

(S) Publish Date: 1-14-94

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: An act relating to assisted living homes BRU: Senior Services  
 Component: Senior Services Administration  
 Sponsor: \_\_\_\_\_  
 Requestor: Governor COMPONENT SERIAL NO. 1981

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

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY94) cost: \$ \_\_\_\_\_

**POSITIONS:**

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

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

Adequate funding is included in the FY95 budget for the new Division of Senior Services to handle the responsibilities of this bill.

does not apply to CS

Prepared by: Connie J. Sipe, Director Phone: 563-5654  
 Division: Senior Services Date: \_\_\_\_\_

Approved by Commissioner: [Signature] Date: 12/27/93  
 Agency: Administration

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 14, 1994

*The Honorable Ramona Barnes  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182*

*Dear Speaker Barnes:*

*Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill related to assisted living homes. An assisted living home is a residential facility that serves adults, provides housing and food service, and provides or obtains for the residents assistance with activities of daily living, personal assistance or health-related services. Medical facilities licensed under AS 18.20, such as nursing homes and hospitals, and certain other types of residential facilities (including correctional facilities and emergency shelters) are not classified as assisted living homes under this bill.*

*Although assisted living homes are not health care or medical facilities, they may provide or obtain various health-related services for residents, such as intermittent nursing care, supervision of the resident's self-administration of medications, and needed care and comfort to terminally ill patients who are under the care of a doctor who verifies that the needs of the resident are being met in the assisted living home.*

*The bill is intended to promote the establishment of assisted living homes that will provide a home-like setting as well as certain health-related services or assistance with certain personal activities. Such services will allow the elderly to age in place, rather than having to be transferred to a more institutionalized nursing-home setting, and will allow adults with a physical or mental disability to become integrated into their community.*

*Currently, the Department of Health and Social Services, under AS 47.35, licenses and regulates certain facilities that care for dependent adults. Under this bill, that licensing structure will be deleted and replaced by a new chapter (AS 47.33) that provides for assisted living homes. Responsibility for licensing and regulating the homes will be split between the Department of Health and Social Services and the Department of Administration.*

The Honorable Ramona Barnes

January 14, 1994

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The Department of Administration will be responsible for licensure of assisted living homes that will be providing care primarily to individuals who are elderly, who have a physical disability, or who suffer from dementia, but who are not diagnosed as chronically mentally ill. Licensure of assisted living homes that will be providing care primarily to individuals with a mental or developmental disability will be the responsibility of the Department of Health and Social Services. Provision is made for joint agency determination of the appropriate licensing agency in cases in which that designation cannot easily be made. The Department of Health and Social Services, division of family and youth services, will continue to license residential homes and facilities for children under AS 47.35. The respective licensing agencies will be responsible for investigating complaints filed regarding assisted living homes and for taking necessary action to protect residents through administrative actions.

The main body of the bill is contained in sec. 1 of the bill, which defines "assisted living home," describes certain services, sets certain operating standards, and provides for licensing and regulations. For example, sec. 1 specifically provides for the safeguarding of money that a resident of an assisted living home deposited with the home for safekeeping and management. Section 1 also requires assisted living homes to keep records regarding residents' care, as well as provide their residents with information regarding residents' rights at the home, including timely notice regarding closure or relocation, notice of any change in rates, and protections in case of an action for involuntary discharge from the home.

Furthermore, the bill states that an individual may not be admitted to an assisted living home without that person's consent, or, if the individual is not competent, the consent of the individual's representative. In addition, an individual may not be admitted as a resident of an assisted living home unless an admission contract has been signed by the individual (or the individual's representative, if appropriate) and the home. The bill also requires that an assisted living plan for a resident be developed, and approved by the resident (or the resident's representative, if appropriate), within 30 days after that resident was admitted to the home. The plan is designed to identify the reasonable wants and needs of the resident and the ways in which those wants and needs will be met.

Section 1 of the bill also contains a lengthy list of residents' rights. These rights are designed to protect the residents' privacy and independence and to allow residents to be able to participate in grievance procedures or other remedial actions relating to resident complaints regarding how an assisted living home is providing care. Under the bill, certain complaints may be filed with the appropriate licensing agency; the licensing agencies have investigatory and sanction authority.

The Honorable Ramona Barnes  
January 14, 1994  
Page 3

Sections 2 through 12 of the bill amend existing statutory provisions to acknowledge the provisions in sec. 1 of the bill. Section 13 of the bill contains transition provisions regarding regulations and pending proceedings. Sections 14 and 15 allow the Department of Health and Social Services and the Department of Administration to prepare and adopt, before the effective date of the bill, regulations necessary to implement the bill. The new regulations cannot take effect before the effective date of the bill (January 1, 1995).

I urge your support of this important legislation.

Sincerely,

A handwritten signature in black ink, reading "Walter J. Hickel". The signature is written in a cursive style with a large, prominent "W" and "H".

Walter J. Hickel  
Governor

STATE COMMITTEE REPORT

*just* DATE: 3/10/94

FURTHER: Finance

DATE TURNED INTO OFFICE: 3-21-94

State Affairs Committee considered SENATE BILL NO. 249

"An Act relating to assisted living homes; repealing references to residential facilities for dependent adults; and providing for an effective date."

and recommends: *reminds e has cs be adopted and repts it to the floor*

- replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )
- or  adopt previous \_\_\_\_\_ CS SB 249 (HES)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

*FOR SENATE*

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DOA	3.10.94	<input checked="" type="checkbox"/>	
H3SS	3.10.94	<input checked="" type="checkbox"/>	
H3SS	3.10.94	<input checked="" type="checkbox"/>	
H3SS	1.14.94		154.3

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_ *(1) Mike Miller NO REC*

\_\_\_\_\_ *(2) Adria L. Taylor NO REC*

\_\_\_\_\_

*(1) Allen A. Leman DO PASS*

Chair: Signature and Recommendation

# SENATE COMMITTEE REPORT

## FIRST COMMITTEE OF REFERRAL

DATE: 1/14/94

FURTHER State Affairs  
Finance

Date of 5-Day Notice: 1/27/94  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/10/94

HESS Committee considered SENATE BILL NO. 249

~~"An Act relating to assisted living homes; repealing references to residential facilities for dependent adults; and providing for an effective date."~~

and a majority of the committee recommends it be replaced with

and recommends:

[ ] replace with \_\_\_\_\_ CS SB 249 (HES) [ ] same title  
 [ ] attaches amendment(s) and do pass [  ] new title  
 [ ] technical title change (HB only)

[ ] adopts \_\_\_\_\_ Letter of Intent

[ ] further referral to the \_\_\_\_\_

[ ] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

*2 FIN'S  
3 FIN'S*

New -				FISCAL NOTE INFORMATION			
Department	Date	Zero	Fiscal	Department	Date	Zero	Fiscal
<del>Health Services</del>	<del>1/14/94</del>		<del>154.3</del>	CS <del>Gov's - HESS</del>	<del>1/14</del>	<del>+</del>	<del>154.3</del>
+SB HESS/Medicaid	2/23		✓				
+SB HESS/ " Claims	2/23		✓				
3 only ADW/Pioneer	3/8	✓					

[ ] Appropriation No Fiscal Note       Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS: \_\_\_\_\_ OTHER RECOMMENDATIONS: \_\_\_\_\_  
 \_\_\_\_\_ *Ellis no rec.* \_\_\_\_\_  
 \_\_\_\_\_ *12/11* \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Steve King Du Pass  
Chair: Signature and Recommendation