

**SB**

**204**

**HFIN**

**FILE**

(T1)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: April 15, 2000

FURTHER REFERRALS:

Date of Committee Action: 4/19/00

The FINANCE Committee considered:

SB 204

SENATE BILL NO. 204

EXTEND ALASKA COMMISSION ON AGING

"An Act extending the termination date of the Alaska Commission on Aging; and providing for an effective date."

recommends it be replaced

with the following committee substitute HCS SB 204 (FIN)

the same title  
 a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: HFC Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) DOA

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Don Bende Bende</u>	✓			
<u>John James DAVIES</u>	X			
<u>Bernard Goussendard</u>	X			
<u>Harry L. Davis</u>	X			
<u>William Williams</u>	X			
<u>Laird Phillips</u>	✓			
<u>Foster</u>	X			

CHAIR'S SIGNATURE

Don Bende

Chair

# FISCAL NOTE

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

**BILL NO. HCS SB 204 (FIN)**

Revision Date/Time (Note if correction) <u>4/19/00</u>	Dept. Affected <u>Administration</u>
Title <u>An Act extending the termination date of the</u>	BRU <u>Senior Services</u>
<u>Alaska Commission on Aging</u>	Component <u>Protection, Community Services</u>
Sponsor <u>(S) HESS</u>	<u>and Administration</u>
Requester <u>(H) FIN</u>	Component No. <u>2083</u>

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

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	633.4	633.4	633.4	633.4	633.4	633.4
Travel	70.0	70.0	70.0	70.0	70.0	70.0
Contractual	264.6	264.6	264.6	264.6	264.6	264.6
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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>976.0</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE 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	784.7	784.7	784.7	784.7	784.7	784.7
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
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1037 GF/Mental Health	109.7	109.7	109.7	109.7	109.7	109.7
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<b>TOTAL</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time	10	10.0	10.0	10.0	10.0	10.0
Part-time	1	1.0	1.0	1.0	1.0	1.0
Temporary	0	0.0	0.0	0.0	0.0	0.0

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

This bill will extend the termination date of the Alaska Commission on Aging to June 30, 2004. In reality, it will have no fiscal impact on the department, as these costs are already included in the Governor's budget. This fiscal note assumes that the Commission will continue in its current configuration, and reflects salary and benefit costs for all positions. Expenditure data also reflects travel, contractual, and supply costs as submitted in the Governor's budget.

Prepared by: <u>Jane Demmert, Executive Director</u>	Phone <u>907-465-4879</u>
Division <u>Senior Services</u>	Date/Time _____
Approved by Commissioner -- Robert Poe, Jr. <u>[Signature]</u>	Date <u>4/19/00</u>
Agency <u>Department of Administration</u>	


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HCS CS SB 204 (Fin)

LETTER OF INTENT

It is the intent of the Legislature that during the interim the Long Term Care Task Force address the placement of the Long Term Care Ombudsman's office and make a recommendation to the Twenty-Second Legislature as to the placement of the office.

A handwritten signature in cursive script, appearing to read "Con Bunde", written over a horizontal line.

Representative Con Bunde  
Vice-Chairman

Adopted by the House Finance Committee  
April 19, 2000

4/19/00

1-LS1288\G.1  
Lauterbach  
4/18/00

adopted N/D

H 1

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE PHILLIPS

TO: HCS SB 204 (YES)

- 1 Page 1, line 2:
- 2 Delete all material.
  
- 3 Page 1, line 3:
- 4 Delete "**Commission on Aging to the legislative branch;**"
  
- 5 Page 1, line 6, through page 8, line 26:
- 6 Delete all material.
  
- 7 Page 8, line 27:
- 8 Delete "**Sec. 9**"
- 9 Insert "**Section 1**"
  
- 10 Page 8, line 30, through page 13, line 13:
- 11 Delete all material.
  
- 12 Page 13, following line 13:
- 13 Insert a new bill section to read:
- 14 "**\* Sec. 2.** This Act takes effect June 30, 2000."



Health, Education, and Social Services Committee  
Alaska State Legislature  
House of Representatives

MEMORANDUM

April 12, 2000

To: House HESS Committee Members  
From: Rep. Fred Dyson, Chair, House HESS  
RE: CS for SB 204

This CS moves the Long Term Care Ombudsman from the Older Alaskans' Commission to the Legislative Branch.

In order for the long term care of the elderly to be monitored and investigated properly we must move the Long Term Care Ombudsman's (LTCO) office out of its current conflicted position. It is not possible for the Director of the Commission on Aging to neutrally monitor the Long Term Care Ombudsman who may be investigating actions of that Director, his/her employees, and colleagues within the Department of Administration. A recent Legislative Audit, #02-4591-00, clearly shows the conflict that exists under the present system. Alaskans have a right to be assured that they, or their friends and relatives who are under the care of a state operated facility will be accorded the same rights to a full and fair investigation of care as are persons in the care of a private facility.

The only way to be sure that investigations of public and private long term facilities are seen equal is to move the responsibility for investigation of complaints and advocacy for the rights of seniors away from a body that also operates some of these facilities.

# Alaska State Legislature



Senator Mike Miller, Chairman  
Senator Pete Kelly, Vice Chairman  
Senator Drue Pearce  
Senator Gary Wilken  
Senator Kim Elton

State Capitol, Rm 119  
Juneau, Alaska 99801-1182  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

SB 204

"An Act extending the termination date of the Alaska Commission on Aging"

The Alaska Commission on Aging was first established as a single Planning and Service Area (PSA) in the Department of Administration as the Older Alaskans Commission in July of 1981 by AS 44.21. Being classified as a PSA means that the commission is the only agency in the State that plans, funds, and oversees services to seniors statewide. In 1994, legislation was adopted (Chapter 131, SLA 1994) that changed the commission's name to Alaska Commission on Aging.

The commission is authorized to administer and coordinate state programs for older Alaskans and to administer federal programs provided under the Older Americans Act, 42 U.S. Code 3001-30451, as amended. Together, the provisions of AS 44.21 and the Older Americans Act establishes the commission's authority, purpose, and scope of work.

On September 17, 1999, the Alaska State Legislature, Legislative Budget and Audit Committee's special report on the Department of Administration, Alaska Commission on Aging conclusion's were the following:

### Report Conclusions

#### The expiration date of ACoA should be extended.

In our opinion, ACoA has demonstrated that there is a public need for this commission. According to AS 44.66.010, the commission is scheduled to expire June, 30, 2000. We recommend that the legislature adopt legislation extending ACoA's expiration date to June 30, 2004.

The purpose of SB 104 is to extend the termination date of the Alaska Commission on Aging; to June 2004.

SB 204

MARTY MARGESON  
1401 West 13th Ave  
Anchorage, Ak. 99501  
907-278-9275, FAX 279-9282  
E-mail: aswecthome@pci.net

**SUPPORT SENATE BILL 204: MOVE THE OLTCO**  
House Finance  
Committee Hearing Testimony 4/18/00

I would like to offer support to Senate bill 204 moving the Longterm Care Ombudsman's office from its conflicted position under the Dept. Administration to the Legislative Office. We have continually witnessed problems in our beloved Anchorage Pioneer Home - problems more easily addressed and solved if the Ombudsman's office were freer to act and investigate. How can Commissioner Poe oversee both agencies - both the Pioneer Homes and the Longterm Care Ombudsman - is this not an obvious conflict of interest. We have seen that the fox cannot guard the hen house - we see problems continue. We are a state without consumer protections. Families and handicapped Senior residents deserve the unbiased protection and advocacy of a strong Longterm Care Ombudsman. This can only be accomplished by immediately moving the Office. I encourage you to support this bill.

H 1

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE PHILLIPS

TO: HCS SB 204(HES)

- 1 Page 1, line 2:  
2 Delete all material.
- 3 Page 1, line 3:  
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11 Delete all material.
- 12 Page 13, following line 13:  
13 Insert a new bill section to read:  
14 **"\* Sec. 2. This Act takes effect June 30, 2000."**

**TESTIMONY OF FRANCES PURDY  
IN SUPPORT OF HCS SB 204**

(Moving the Office of the Long-Term Care Ombudsman  
from the department of administration to the legislative branch\_

Committee Chair and Honorable Representatives:

I come before you today in support of HCSSB204. This is a very sound solution for supporting the mission of the Office of the Long-Term Care Ombudsman (OLTCO). The Long-Term Care Ombudsman programs were developed at the national level, in part, because nursing home licensing in some states was ineffective at ensuring adequate and safe services for seniors. In Alaska, we anticipated the long-term care service delivery and created the OLTCO to advocate for seniors in nursing homes and assisted living homes. Alaska also saw a need to have the OLTCO advocate for seniors in public housing or when they use long term care services in their own home or in the community.

When the OLTCO was first placed in the Alaska Commission on Aging (Commission), the Commission focused on planning and not service delivery. The Commission is now heavily involved in coordinating or supervising the delivery of long term care services to seniors. The Commission and the Division of Senior Services (Division) now are involved in almost every aspect of senior service delivery except nursing home administration and licensing. The Division even participates in the admission process into nursing homes.

The Commission administer grants that operate assisted living homes in rural Alaska, senior centers throughout the state, senior transportation, meals on wheels, care coordinators who manage the care delivered to seniors not in nursing homes. The Commission shares budget, personnel and other administrative staff and functions with the Division that makes a conflict with the one also a problem with the other. This subjects the OLTCO to financial or administrative repercussion for challenging Commission or Division policies, procedures or services.

The following are Division programs about which seniors request individual or systemic advocacy: Adult Protective Services, the OLTCO advocates for the wishes of seniors when Adult Protective Services represents what the State of Alaska believes is best for the senior; Medicaid Waiver, the OLTCO advocates for either the seniors' use of the Medicaid Waiver services instead of a nursing home or advocates for a higher amount of services than approved by the Division so that the senior can stay at home rather than going to an assisted or nursing home; and Assisted Living Home licensing whose role is to enforce the minimum standards while the OLTCO advocates for the best practices and needs of seniors that may require more than minimum standards.

In the Department is also found the Division of Longevity Bonus (the six Pioneers' Homes) and the Office of Public Advocacy (public guardians and conservators that manage the assets or services for seniors and advocates the right of the State to make decisions for the Senior in conjunction with Adult Protective Services).

These issues cause tension because the OLTCO has the role and responsibility to be an advocate for individual seniors and advocate for systemic changes that effect seniors in general. This tension makes the OLTCO job difficult. The advocacy tasks are completely compromised with the placement of the OLTCO within the very Commission, Division and Department that houses the overwhelming number of programs about which seniors have complaints or request advocacy. The OLTCO in this small bureaucracy appears to be easily touched by overlapping and conflicting program tasks and directions of the Commission, Division and Department.

This legislation was first developed over one year ago. It has been reviewed by all entities involved, including the regional and national offices that fund and supervise the Long-Term Care Ombudsman programs. This legislation follows the well researched trend of other states to make the Long-Term Care Ombudsman independent of the programs, rmanagers, owners and agencies from which seniors" complaints arise.

The issues involved in this conflict need not be analyzed on a personal basis. The conflicts identified in the state and national studies transcend this current administration. The problems are created by the current placement of the OLTCO in an administrative structure that delivers the very programs seniors request assistance to change or to resolve problems left unresolved by that administration. The administrative problems can be solved by a restructure as offered in this proposed statutory revision.

Please vote to pass this bill out of committee so that the OLTCO can perform its advocacy and problems solving tasks without conflict. Seniors deserve an advocate, in fact, not just on paper.

I thank you for this opportunity to discuss this important issue.

Frances Purdy  
1741 Westview Circle  
Anchorage, Alaska 99504  
333-0871  
pager 231-3021

TESTIMONY TO SUPPORT MOVING THE OFFICE OF THE LONG TERM CARE  
OMBUDSMAN'S OFFICE OUT OF THE DEPT. OF ADMINISTRATION  
SB 204

APRIL 19, 2000

Members of the Committee:

My name is Bud Caress. My mother was a 5 year resident of the Anchorage Pioneers' Home. I am a 41 year resident of Alaska. I appreciate the opportunity to supply testimony for this issue.

The Office of the Long Term Care Ombudsman is designed by statute to investigate and advocate for the health and well-being of senior citizens in long term care facilities. The placement of the Alaskan office within the Department of Administration's Alaska Commission on Aging, makes this office unable to fully function as the strong foundation that seniors can depend on when they are powerless to resolve problematic conditions in their long term care.

How then can the Office of the Long Term Care Ombudsman investigate and advocate for resolution of problems in long term care, when they are overseen by the very Department that houses the State of Alaska's largest long term care facility itself? How could the LTCCO "throw rocks at it's own house" safely? Sometimes advocating for change requires some "rock throwing". The political situation surrounding this office has been allowed to go on too long and must be corrected in order to serve Alaska's vulnerable elderly population effectively.

Please support moving the OLTCO out of it's conflicted position and into a neutral setting where they can serve the elderly population of Alaska in the way they were designed by the Legislature to operate.

Many thanks to Senator Lyda Green for having the courage to take a stand to make sure that the senior citizens that are unable to represent themselves have a strong voice in Juneau.

Bud Caress  
6808 Spruce Road  
Anchorage, AK 99507  
349-1712

D-19

SB 204

TESTIMONY TO SUPPORT MOVING THE OFFICE OF THE LONG TERM CARE  
OMBUDSMAN'S OFFICE OUT OF THE DEPT. OF ADMINISTRATION

APRIL 18, 2000

~~\_\_\_\_\_~~ Committee members (HCS SB204)  
Through the Chairs:

I appreciate the opportunity to testify to this issue that I consider so critical to the elderly residents of long term care in Alaska. My mother was a 5 year resident of Anch. Pioneers' Home and I am currently a member of the Northside Pioneers' Home Family Council. <sup>Anch</sup> The Office of the Long Term Care Ombudsman is designed by statute to investigate and advocate for the health and well-being of senior citizens in long term care facilities. Because of the placement of the Alaskan office within the Department of Administration's Alaska Commission on Aging, this office cannot fully function as the strong foundation that seniors can depend on when they are powerless to resolve problematic conditions in their long term care alone. Currently the office exists as a beleaguered entity that operates at the mercy of the Department of Administration's political whims.

These are the same political whims that has the Department's Commissioner refusing to recognize concerned family members and citizens who wish to see that the State of Alaska does the best job possible in the business of caring for it's most frail and dependent residents. Commissioner Poe's refusal to acknowledge or support the newly formed Northside Pioneers' Home Family Council speaks volumes about the inability of this department to allow for realistic resolution of resident care issues. How then can the Office of the Long Term Care Ombudsman go about the business of investigating and advocating for resolution of problems, if they are not allowed to acknowledge that serious problems exist?

Please support moving the OLTCO out of it's conflicted position and into a neutral setting where they can serve the elderly population of Alaska in the way they were designed by the Legislature to operate.

Lisa Caress-Beu  
2420 Chinook Avenue  
Anchorage, AK 99516  
(907) 345-0515

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. HCS SB 204 (HES)

Revision Date/Time (Note if correction) 4/17/00 Dept. Affected Administration  
 Title An Act extending the termination date of the BRU Senior Services  
 Alaska Commission on Aging Component Protection, Community Services  
 Sponsor (S) HESS and Administration  
 Requester (H) FIN Component No. 2083

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

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

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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>976.0</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>	<b>976.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time	10	10.0	10.0	10.0	10.0	10.0
Part-time	1	1.0	1.0	1.0	1.0	1.0
Temporary	0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

See attached.

REPORTED OUT OF  
HFC

Prepared by: Jane Demmert, Executive Director Phone 907-465-4879  
 Division Senior Services Date/Time \_\_\_\_\_  
 Approved by Commissioner Robert Poe, Jr. Alison M. Elger Date 4/17/00  
 Agency Department of Administration

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## FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. HCS SB 204 (HES)

**Analysis continued:**

This bill will:

- 1) extend the termination date of the Alaska Commission on Aging (ACOA) to June 30, 2004;
- 2) effective July 1, 2000 transfer the Long Term Care Ombudsman function from the Alaska Commission on Aging to the Alaska Legislature. In reality, the bill will have no fiscal impact on the Commission and the Department of Administration, as these costs are already included in the Governor's budget. This reflects salary and benefit costs for all positions, as well as travel, contractual and supply costs as submitted in the Governor's budget. This fiscal note assumes the Commission will continue in its current configuration with one change: the transfer of the Long Term Care Ombudsman function to the Legislature. The Long Term Care Ombudsman program is funded with federal Older Americans Act funding. Under provisions of the Older Americans Act, the Commission is the sole State agency designated to receive and administer Older American Act funding. Therefore the Commission will establish an annual Reimbursable Services Agreement with the Alaska Legislature to annually transfer to the Legislature funding for continued operation of the Long Term Care Ombudsman function.

The annual operating budget for the LTCO function is included in the total ACOA funding. The LTCO budget is \$238.0.

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. HCS SB 204 (HES)

Revision Date/Time (Note if correction) <u>4/17/00</u>	Dept. Affected <u>Administration</u>
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Alaska Commission on Aging	Component <u>Protection, Community Services</u>
Sponsor <u>(S) HESS</u>	<u>and Administration</u>
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ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: <u>Jane Demmert, Executive Director</u>	Phone <u>907-465-4879</u>
Division <u>Senior Services</u>	Date/Time _____
Approved by Commissioner Robert Poe, Jr. <u>[Signature]</u>	Date <u>4/17/00</u>
Agency <u>Department of Administration</u>	

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# Alaska State Legislature



Official Business  
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Juneau, Alaska 99801-1182

**Representative Gail Phillips**

To: House Finance Committee Members  
From: Representative Gail Phillips *Gail*  
Date: April 18, 2000  
Re: SB 204: Extend Alaska Commission on Aging

Please see the attached memo from Pat Davidson to Senator Randy Phillips regarding placement of the Long-Term Care Ombudsman.

In checking with the bill sponsor, Senator Miller, his main concern is for extending the Commission's sunset clause. He has no preference on where the Ombudsman is placed.

Further discussions with Legislative Council members revealed that no one knew about the idea of placing the Long -Term Ombudsman position under Legislative Council. Members expressed it should not be placed under the Council, which is certain to have budget impacts regardless of the federal funds coming into this program.

My recommendation would be to adopt one of the other suggestions made by the auditor. Certainly, using a private sector contractor has a great amount of appeal.

Thanks

GP/ccm

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

### Division of Legislative Audit



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### MEMORANDUM

**TO:** The Honorable Randy Phillips  
Alaska State Senate

**FROM:** Pat Davidson *Pat D*  
Legislative Auditor

**DATE:** February 18, 2000

**RE:** Organizational Placement of the  
Long Term Care Ombudsman

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We have prepared this memorandum in response to your request regarding the Long Term Care Ombudsman (LTCO) function, and where it possibly should be organizationally located. As reflected in our sunset audit report of the Alaska Commission on Aging (ACoA) we had concerns about the organizational independence of the LTCO position, and recommended the commission investigate alternative organizational options.

Since the time we completed our audit, ACoA has considered various options in regards to reorganizing the LTCO function. Since, in our view, the nature of the reorganization was appropriately within the discretion of ACoA, we did not discuss possible organizational options in our sunset report. We believe we have some insight into the alternative reorganization of the LTCO function, and at your request, we will set out our thoughts, perspective, and concerns in this memorandum.

In our view, any reorganization of the LTCO function must address two central problems:

1. The conflict of interest with the management of the state's Pioneer Homes. Department of Administration (DOA) management is responsible for administering the state's Pioneer Homes. Operation of the homes falls within LTCO oversight. DOA's deputy commissioner is a voting member of ACoA and in the past has participated in the hiring and firing of the LTCO. Accordingly, any change in the organizational placement of the LTCO function must better isolate the position from oversight and possible interference from DOA management.

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2. The lack of established investigative protocols. State law suggests that ACoA take an active role in LTCO operations. At AS 44.22.239, it provides "[ACoA] shall enter into cooperative agreements concerning the operations of the [LTCO], including protocols for investigations, with state and local agencies that have jurisdiction over long term care facilities or over the abuse and neglect of older Alaskans." [Emphasis added.]

While the statute seems to suggest that such protocols involve coordination between state agencies, we also think it would be helpful to establish procedures regarding how complaints should be handled while being investigated. In particular, the confidentiality status of complaints under investigation and how information about ongoing and completed investigations should be communicated are key operational standards that need to be established. It may be useful for ACoA to solicit the perspective of private sector facilities and industry organizations when developing procedures and protocols for LTCO investigations.

#### Possible Reorganization Options

1. Keep the LTCO function under ACoA but with improved oversight and greater separation from Pioneer Home administration. ACoA could revise its bylaws to provide for a special subcommittee with the specific responsibility of overseeing the LTCO. A group of three to five commission members exclusive of the designee of the DOA commissioner and the chair of the Pioneer Home Advisory Committee could make up such a committee. Besides directing, in a general way, the activities of the LTCO and being responsible for evaluating the incumbent's performance, the sub-committee could develop standard procedures for how the LTCO is to conduct investigations.

Rather than leave such an administrative restructuring to ACoA, the legislature may want to amend state law to create such an LTCO oversight committee under commission auspices. Such action would make it clear the legislature wished to better isolate the LTCO function from DOA management influence, while at the same time provide the individual in the position formal, institutionalized accountability, and oversight.

In our view it is important to keep ACoA involved, at some level, with the selection, oversight, and support of the LTCO function. The primary people served by the LTCO are "constituents" of ACoA. Commission members are more likely to be attuned to the needs, and difficulties, that the elderly may be facing in various long term care facilities. Although DOA would retain a position on the commission under this scenario, this change may provide for a sufficient level of independence for the LTCO.

2. Transfer administrative responsibility for ACoA from the Department of Administration (DOA) to the Department of Health and Social Services (DHSS). Under this option, the LTCO, along with other functions and programs of ACoA would be transferred to DHSS. This option would segregate the LTCO function from the operations of the state's Pioneer Homes. ACoA could still maintain direct oversight of the long-term care ombudsman. Independence from management of the Pioneer Homes could also be improved by making the designee of the DHSS commissioner a voting member of ACoA (currently

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this is a non-voting position) and making the representative of the Department of Administration a non-voting member.

Separating various programs administered by ACoA staff between DOA and DHSS may be somewhat of a problem. ACoA staff is responsible for administering numerous programs funded in large part by federal funds. The administration of these federal funds also involve the Division of Senior Services (DSS) personnel, and the executive director of ACoA has a somewhat unique dual reporting responsibility to both the commission and the DSS director. We do not think these reorganization problems would be insurmountable.

3. Transfer the LTCO function to the Division of Medical Assistance (DMA) within DHSS. This option would involve transferring the LTCO function to the licensing section of DMA. This agency is responsible for inspecting and licensing all health facilities in the State to determine the facility meets state and federal operating standards. Additionally, similar to the LTCO, this agency investigates complaints made against health care providers.

The purpose behind the agency's inspections is to determine a health care provider's ability to provide services which are safe and of an acceptable quality. The inspections (called surveys) are typically unannounced. Inspections can take two to five days to complete and include such things as: a review of medical records; observing direct patient care; interviews with staff, patients, and families; review of facility policies and procedures; and, inspection of the physical integrity of the buildings. These activities are similar to, and address, many of the operational aspects carried out in a typical LTCO investigation.

Under this option, it may be difficult, although probably not impossible, to keep ACoA actively involved in the oversight and direction of the LTCO function. This option would likely result in the LTCO becoming more of a line state agency, reporting either to the director of DMA, or directly to the DHSS commissioner's office.

Another drawback may involve the merging of somewhat disparate objectives. The DMA surveys are part of regulatory regime of health care facilities wishing to qualify for reimbursement through Medicare and Medicaid. The LTCO function is typically characterized as being an "advocate" for individuals in long term care facilities. The operating philosophy involved with advocacy may result in a very different inspection and reporting approach than may be the case with regulatory inspections.

4. Provide function through a contract with a private non-profit organization. Another option, which has been considered by ACoA, is providing LTCO services through a contract with a private sector, non-profit organization. One such organization that was considered was an entity such as the Disability Law Center. The organization is non-profit which essentially acts as legal advocates on behalf of the disabled, pursuing enforcement of such laws as the Americans with Disabilities Act and the Individuals with

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Disabilities Education Act. In addition to this advocacy function, DLC provides outreach, direct services, and public education regarding disabled citizens of the State.

It is critical that whatever organization is selected, it would be important that the contract specifies in some detail how the LTCO should operate and report results. The aforementioned investigative protocols and the oversight relationship with ACoA would be especially critical. It would appear to us that ACoA would possibly be able to exercise less control in such a situation, leaving much of the day-to-day prioritization and operations to the discretion of the contractor. Under such an option it would be important that the previously discussed ACoA sub-committee supervise the contract. Use of such a sub-committee, exclusive of DOA-affiliated membership, in such a way would avoid what may be viewed as clouding the independence of the LTCO function.

Another concern we would have would be continuity. Even though multi-year contracts can be used to ensure a selected contractor will be around long enough to build up experience, good contracting practice would dictate that the contract be "re-bid" on a periodic basis. Such requirements do pose the possibility there may be lack of continuity in carrying out the LTCO function.

5. Transfer the LTCO function to the Office of the Ombudsman in the legislative branch of government. Ms. Demmert also spoke briefly to this possibility. She commented that this option had been considered by ACoA, but largely had been discarded on the recommendation of Ms. Moya, Acting Ombudsman. That recommendation was based on her perspective that her current statutory authority was incompatible with the functions of the LTCO. Whether this could be remedied with a statutory change would be question for the ombudsman.

Placement of the LTCO in the legislative branch would seemingly address the concerns regarding undue influence and conflict of interest that seem to remain under any of the other placement schemes. Such placement however, would place what should be an ongoing, administrative oversight function involving day-to-day operations outside the executive branch of government. In our view it may be awkward to provide what we believe is the necessary operational oversight to the LTCO from the legislative branch of government.

We believe virtually any operational scenario would be consistent with federal requirements. Federal funding provided in association with the Older Americans Act is used to cover the cost of the LTCO function. Accordingly, this federal legislation does establish certain parameters and requirements in regards to how the LTCO function must be carried out. From our reading of the federal law, and from discussions with Ms. Demmert, it does appear that the requirements are not particularly restrictive. In our view any of the organizational scenarios discussed in this memorandum would not run afoul of relevant federal requirements nor jeopardize the funding received for the operation of an LTCO program.

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I hope this memorandum has been useful. In order to be concise and in the interest of response time we have omitted specific discussion of what statutory changes may have to be made to accompany any particular option. If we can be of further assistance, or you would like a more in-depth review of one or all of these options, please feel free to contact me.



# Alaska State Legislature

Please enter into the record my testimony to the House Finance  
 committee name  
 committee on SB 204, dated 4/19/00  
 bill/subject

To Committee Chair and Honorable Representatives:-  
 I support this Bill. I am an RN certified in Gerontology. I have been in nursing for 30 years. I worked at APH for 6 yrs. I know on many occasions we were told not to report information to the LTCO. This continues to be true even today. I feel Seniors in the State of Alaska continue to be harmed by LTCO under Dept of Admin. LTCO office needs to be free to carry out any & all complaints for all Senior Citizens. This has not been the case since I started to advocate for people in APH in April 1992. I feel this bill will stop the intentional interference that has been allowed to happen under the Dept. of Admin.

Signed: Doreen Emmons  
 Testifier

Representing (Optional)  
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