

LEGISLATIVE FINANCE-HOUSE / SENATE FINANCE COMM. FILES 8879

HB 418 cont. HB 428 521 12

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER NUMBER

02-A005

(X2) MULTIPLE CONSTRUCTION

A. BUILDING _____
B. WING _____

(X3) DATE SURVEY COMPLETED

September 12-15, 1989

STREET ADDRESS, CITY, STATE, ZIP CODE

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	<p>gestures;" "inappropriate sexual behavior towards another resident." These unwanted behaviors were not identified nor responded to by the facility. For example:</p> <p>a. Review of record revealed no Social Service assessment identifying these problems. Social history was dated 7/1/86 with no updates located. Social services progress notes were not current or informative. Note of 8/5/88 indicates a psychiatric evaluation was scheduled. No follow-up was located.</p> <p>b. Plan of care did not reflect any intervention being utilized in response to ongoing behavioral problems originally noted by physician in 1987.</p> <p>c. Plan of care did not address inappropriate sexual behavior by resident.</p>			

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	<p>2. Further review of resident's record revealed inappropriate use of restraints, resulting in decline of physical functioning and reinforcement of unwanted behaviors. For example:</p> <p>a. Note of 4/17/89: "Pt. was put to bed as a disciplinary measure following an episode of verbal abuse (and) threat of physical aggression.</p> <p>b. Note of 6/9/89: "Due to (staff's) inability to observe his location (and) actions at all times, (resident) to be allowed in (wheelchair) only with direct supervision; re: to dining room (and) back". Resident was otherwise kept in a geri-chair even though "loss of ambulation" was identified as a problem in the record.</p> <p>c. Nursing note of 7/26/89: "OT consultant stated that (Pt.) agreeable to ROM exercise while smoking at same time. RA's have (her) ok to use this</p>			

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	<p>technique to increase (Pt's) cooperation."</p> <p>d. Physician's order: "Haldol PRN."</p> <p>B. Resident #11:</p> <ol style="list-style-type: none"> Review of resident's record reveals numerous behavioral problems reflected in the Nursing progress notes. For example: "awake and noisy during evening," "restless;" "loud and uncooperative;" "verbal abuse and aggressive towards patients and staff;" "sleeps during day and awake at night;" "sexual advances towards aides both physically and verbally." Problem behaviors noted in Nursing progress notes were not addressed in the resident's plan of care, assessment or intervention by Social Services. Observation and record review indicated interventions to reduce unwanted behaviors were primarily use of physical and chemical 			

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	<p>restraints. The use of restraints resulted in increased loss of physical functioning resulting in numerous falls and injuries. For example:</p> <p>a. Review of incident reports for March, April, and May, 1989, revealed resident, while in restraints, fell five times during three months.</p> <p>b. Note of 2/14/89: "(resident) suffered a Fx (R) shoulder about 2 weeks ago" during walk to bathroom assisted by aide.</p> <p>c. Note of 6/8/89: "Patient fell about 2 weeks ago when getting up by himself and Fx (L) clavicle".</p> <p>d. Physician order: Haldol 2.5 mg PO Bid.</p> <p>In addition, the use of restraints was not an appropriate intervention to restrict unwanted behavior. For example, nursing note of 3/17/89 indicated "if can't observe at all</p>			

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	<p>times, might help to tie w/c to hall railing."</p> <p>C. Resident #12:</p> <p>1. Review of resident's record revealed resident admitted to facility April, 1989, with a primary diagnosis of a progressive, degenerative neurological disorder of unknown etiology. Review of record further revealed history of suicidal ideation with an active suicide attempt 2/89. Review of Nursing progress notes revealed progressive decline of resident's general health and level of physical functioning. Progress notes also revealed resident with suicidal ideation in May, June, and August, 1989. Interview with facility staff on 9/13 and 9/14/89, revealed the resident "wanting to die so won't be a financial burden on family." Staff further reported their belief that resident is "dying" and "getting ready to die." Observations of this</p>			

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	<p>resident during survey revealed significant decline in resident's physical energy and functioning. Interview with resident's wife on 9/14/89 revealed she may be having difficulty accepting resident's condition. In addition, she reported having transportation and financial difficulties. Social Services had not addressed these problems.</p> <p>Relative to the problems of death and dying, suicidality, degenerative illness, and family problems. Social Service assessment and interventions were limited to the following:</p> <ol style="list-style-type: none"> 1. Behavior: When he is depressed, he has talked of suicide and staff need to be alert to subtle shifts in his emotion. 2. Assist in filing Alaska Permanent Fund Dividend. Assist transfer to Pioneer Home. Encourage durable power of attorney. 			

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F747	<p><u>(b) Staffing (STANDARD NOT MET)</u></p> <p>The facility had not arranged for sufficient consultation and assistance by the social work consultant to meet resident needs. For example:</p> <ol style="list-style-type: none"> 1. Please refer to F236 and F237 regarding assessments not identifying resident's needs, interdisciplinary plans of care lacking resident's goals, progress notes not reflecting resident's needs, problems, goals, or interventions. 2. Please refer to F236 and F237 regarding examples from resident's #11, and #13. These resident examples indicate significant problems regarding lack of appropriate interventions to reduce unwanted behaviors. 	F747	<p>Additional training and consultant services have been scheduled, and received. Review of the services and documentation thereof including assessments, histories, roles and interventions of other Long Term Care Facilities Social Service Departments (via visits to other facilities) took place 9-19-89, 9-25-89 and 9-26-89. The MSW Consultant began chart review and will continue to provide training and chart review on a monthly basis to bring current charting into conformance, thereafter, consulting at such frequency to insure continued compliance.</p>	10-30-89 was put into place on 10/15-16/89
F239	405.1131 Activities (CONDITION NOT MET)	F239		
F240	<u>(b) Patient Activities Program (STANDARD NOT MET)</u>	F240		
F242 F244	An ongoing program of meaningful activities had not been provided based on identified needs and interests of each resident.	F242 F244	<p>New programs have been initiated which will meet the individual needs and interests of each individual resident.</p> <p style="text-align: right;">Activities Coordinator</p>	10-5-89

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	<p>Further, the facility's program of activities did not promote opportunities for engaging in normal pursuits of daily living, or the physical, social, and mental well being of each resident. For example:</p> <ol style="list-style-type: none"> 1. Ten of 13 records reviewed revealed the absence of Activities assessments which identified residents' problems or needs. 2. Thirteen of 13 records reviewed revealed the absence of current progress notes, to include ongoing evaluations and assessments of residents' needs or effectiveness of interventions. 3. The activities observed by surveyors were not appropriate to the resident participants in relation to the special needs resulting from cognitive, communicative, interactive and physical deficits with the addition of cultural diversities. For example: <ol style="list-style-type: none"> a. On 9/12/89 the "Native Culture" activity consisted of the showing of a film depicting a Greek tragedy. 		<p>Continued:</p> <p>A new, reorganized activities program has been initiated (after review of activities programs in other facilities via site visits to four other facilities by the Activities Coordinator and by review and input / consultation by the Activities Consultant and the Occupational Therapist as well as Speech Therapist and Speech Pathologist). This new activities program promotes opportunities for the residents to engage in normal daily living and is structured to reflect the individual physical, social and mental capability as well as plan and goal(s) for each individual resident.</p> <p>Activities assessments will be provided and documented identifying residents problems and needs and located on each resident chart. Activities Coordinator</p> <p>Current progress notes including ongoing evaluations, assessments, needs and interventions as well as the effectiveness of interventions will be documented on the interdisciplinary notes section of each residents chart. Activities Coordinator</p> <p>Multiple small group activities are now offered concurrently. Activities Coordinator</p>	<p>10-5-89</p> <p>10-30-89</p> <p>10-30-89</p> <p>10-05-89</p>

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	<p>a. Approximately 1 time per month, 4-5 residents attend a potluck outside the facility.</p> <p>b. Approximately the same number of residents go shopping in the community once per month.</p> <p>c. "Car rides" once per week allows only a small fraction of the resident population to get out of the facility.</p> <p>5. The facility did not provide meaningful activities for residents throughout each day. For example, review of the activities calendars for July, August, and September, 1989, revealed the following:</p> <p>a. Twenty-seven of 90 days did not have scheduled activities beyond 2:00 pm.</p> <p>b. Forty-four of 90 days did not have scheduled activities beyond 3:00 pm.</p>			
F761	<p><u>(a) Staffing (STANDARD NOT MET)</u></p> <p>The facility did not arranged for sufficient consultation and assistance by</p>	F761	<p>The newly reorganized activities program now provides activities for each day and each evening of the week. This has been accomplished by the addition of more staff as well as gaining additional community volunteers.</p> <p style="text-align: right;">Activities Coordinator</p>	10-05-89
			<p>The frequency of visits / consultation and input by Activities Consultant has been increased to provide adequate direction to insure conformance with guidelines.</p>	10-30-89

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F254	<p>a qualified Activities consultant to meet resident needs. For example, please refer to <u>F240</u>, <u>F242</u>, and <u>F244</u> regarding examples of assessments, plans, and activities which do not meet the needs of each resident.</p> <p><u>405.1132 Medical Records (Condition Met)</u></p> <p><u>(c) Content (Standard Met)</u></p> <p>The medical records did not contain adequate physician documentation. For example:</p> <ol style="list-style-type: none"> Four of 4 discharge records did not have discharge summaries. Two of 4 discharge records did not have a signed transfer record. One of 4 discharge records did not have a signed statement of rehabilitation potential. One of 4 discharge records did not have a statement of prognosis. 	F254	<p>Discharge summaries which historically, were promptly provided and made part of the residents chart will be made current. The physicians were temporarily hampered by time constraints due to large population increases experienced as a result of the oil spill. The physicians are fully aware of the importance of prompt documentation and are now expending the additional time necessary to bring charting, etc. current.</p> <p>Physicians & Nursing</p>	11-30-89
F255	<p>The medical record did not have a physical examination report in 1 of 4 discharge records.</p>	F255	<p>Refer to response to F254</p>	

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F260 F261 F263	<p>The medical records in 10 of 10 active cases reviewed did not contain complete information regarding:</p> <ol style="list-style-type: none"> 1. An overall plan of care setting for goals to be accomplished through each service's designed activities, therapies and treatments. Please cross reference to <u>F233</u>, <u>F234</u>, <u>F236</u>, <u>F239</u>, and <u>F240</u>. 2. Progress notes of resident response to interventions in relation to goals. Please cross reference to <u>F233</u>, <u>F234</u>, <u>F237</u>, <u>F239</u>, <u>F240</u>, and <u>F244</u>. <p><u>405.1134 Physical Environment</u> (Condition Met)</p> <p><u>(e) Patient Rooms and Toilet Facilities</u> (Standard Met)</p>	F260 F261 F263	<p>Charts will reflect/contain complete information including reactions/response from residents. Please refer to responses to: F233, F234, F236, F239, F240, F237, & F244.</p> <p>Nursing, Social Services, Activities, Physicians, Consultants, Dietary and Administrator</p>	10-30-89
F287	<p>Mattresses were not always made available to residents which provide a safe and comfortable bed. Some residents' mattresses were found to be 12"-14" too short for the bed thereby exposing bed springs.</p>	F287	<p>Replacement mattresses have been ordered to insure that all beds have mattresses. 66 sufficient length.</p> <p>Administration</p>	10-10-89

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	<u>405.1135 Infection Control (Condition Met)</u>			
	<u>(b) Aseptic and Isolation Techniques (Standard Met)</u>			
F340	Please cross reference to F102 regarding proper handwashing techniques.	F340	Please refer to response to F102	
	<u>(c) Housekeeping (Standard Met)</u>			
F342	The facility had not always maintained a safe and clean interior. For example:	F342	Ceiling tile will be replaced in areas where missing and / or damaged. Maintenance	10-19-89
	1. Ceiling tile in the freight receiving area was missing and/or water damaged.		Painting and repairs to gauged walls is now on an on-going revolving preventative maintenance schedule which is supplemented by work requisitions to bring to the attention of maintenance any areas of repair. Maintenance	10-30-89
	2. Ceiling tile had been removed above the microwave in the medication storage room.			
	3. Bathroom ceiling tile in rooms 38, 39, 42, and 43, were damaged by water, cracked and broken.		Request has been made to Seward Cablevision TV cable service to address the tv cables throughout the facility. Seward Cablevision & Maintenance	10-30-89
	4. Paint on bathroom walls in rooms 39, 42, and 44 was peeling off wall and stained in some cases.			
	5. Dirty utility room paint was chipped.			

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	<p>6. Paint was chipped around the 2nd floor nurses station.</p> <p>7. Floor coving on 1st and 2nd floors was cracked allowing for potential bacteria build-up.</p> <p>8. Paint on door jams was chipped.</p> <p>9. Gouged walls were found in room 31 and on the 1st floor hallway.</p> <p>10. The antenna cord in room 31 was observed hanging down and out onto the floor between the hall and the resident's bed.</p> <p>11. Room #5 had a seam in the flooring which was separating.</p> <p>12. The dirty linen cart on the 3rd floor old section was left open.</p> <p>13. Room #12 had broken flooring and the toilet paper holder was off the wall.</p>		<p>Continued:</p> <p>Flooring will be addressed on an ongoing maintenance requisition/preventative maintenance program to insure proper repairs.</p> <p style="text-align: right;">Maintenance</p> <p>This linen cart is located on the section where ambulatory male MI residents are located. These residents often place their dirty linen (socks, underwear, etc) in this linen cart for washing. (they do this on their own) We will remind the residents to please close the lid on the dirty linen cart; as well as to remind them that they do not need to put their linen in the cart, our staff will do it for them.</p> <p style="text-align: right;">Nursing</p>	<p>10-30-89</p> <p>10-30-89</p>

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STREET ADDRESS, CITY, STATE, ZIP CODE

ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS- REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X4) COMPLETION DATE
	<p><u>405.1136 Disaster Preparedness</u> <u>(Condition Met)</u></p> <p><u>(a) Disaster Plan (Standard Met)</u></p>			
F355	<p>Facility staff were not aware of their specific responsibilities with regard to evaluation and protection of residents. Please refer to F358 and F359 regarding lack of staff training.</p>	F355	<p>Staff training will be provided, and documentation of this training maintained for review. (Please note response to F102(2))</p> <p>Fire Marshall _____ Department, Administration & DNS</p>	11-30-89
F357	<p><u>(b) Staff Training and Drills</u> <u>(STANDARD NOT MET)</u></p>	F357	<p>Please refer to response to F358</p>	
F358	<p>All employees were not trained, as part of their employment orientation in all aspects of preparedness for any disaster. For example:</p> <ol style="list-style-type: none"> Documentation in 4 of 10 staff records reviewed had no disaster plan or fire safety policy and procedure training. Seven of 10 staff records reviewed had no record of fire inservice training. 	F358	<p>All new employees, as part of their documented orientation program will be trained in areas including but not limited to: Infection Control, Safety, Sanitation, Fire Drills, Disaster preparedness. Thereafter, refresher inservices will be provided on an annual basis. Administration</p>	11-30-89
F359	<p>Facility staff did not participate in ongoing training and drills in all procedures so that each employee promptly and correctly carries out a specific role in</p>	F359	<p>Please refer to response to F358 and F102</p>	

PROVIDER REPRESENTATIVE'S SIGNATURE

TITLE

(X5) DATE

Any deficiency statement ending with an asterisk () denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See reverse for further instructions.) The findings above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER NUMBER

02-A005

(X2) MULTIPLE CONSTRUCTION

A. BUILDING _____
B. WING _____

(X3) DATE SURVEY COMPLETED

September 12-15, 1989

NAME OF PROVIDER OR SUPPLIER

STREET ADDRESS, CITY, STATE, ZIP CODE

ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS- REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
	<p>case of fire or disaster. Fire drills were not held as required. For example:</p> <ol style="list-style-type: none"> 1. 4th quarter, 1988: No fire drill held for night shift. 2. 1st quarter, 1989: No fire drill held for any shift. 3. 2nd quarter, 1989: No fire drill on day shift or night shift. 4. 3rd quarter, 1989: No fire drill on day shift or night shift. See also, <u>F102</u>. 			

PROVIDER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

31 of 31

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See reverse for further instructions.) The findings above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

2. Excerpts from OBRA '87 regarding resident's rights to information.
 - a. Sec. 4211(c)(1)(B) - Notice of Rights.
 - b. Sec. 4202 (c) and Sec 4212 (b) - Posting of Survey Results.

OBRA 187 excerpt - Notice of Rights

retary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

"(xi) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (iii) shall not be construed as requiring the provision of a private room.

→ "(B) NOTICE OF RIGHTS.—A nursing facility must—

"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility;

"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights);

"(iii) inform each resident who is entitled to medical assistance under this title—

"(I) at the time of admission to the facility or, if later, at the time the resident becomes eligible for such assistance, of the items and services (including those specified under section 1902(a)(28)(B)) that are included in nursing facility services under the State plan and for which the resident may not be charged (except as permitted in section 1916), and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services, and

"(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and

"(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

"(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually an independent,

OBRA '87 excerpt - Posting Survey Results

"(ii) copies of cost reports of such facilities filed under this title or title XIX,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO OMBUDSMAN.— Each State shall notify the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), with respect to a skilled nursing facility in the State.

"(C) NOTICE TO PHYSICIANS AND SKILLED NURSING FACILITY ADMINISTRATOR LICENSING BOARD.— If a State finds that a skilled nursing facility has provided substandard quality of care, the State shall notify—

"(i) the attending physician of each resident with respect to which such finding is made, and

"(ii) the State board responsible for the licensing of the skilled nursing facility administrator at the facility.

"(C) ACCESS TO FRAUD CONTROL UNITS.— Each State shall provide its State Medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys and certifications under this subsection."

(c) POSTING SURVEY RESULTS.— Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting, after "readily available form and place" in the fifth sentence, the following: ", and require (1) the case of skilled nursing facilities) the posting in a place readily accessible to patients (and patients' representatives)",

SEC. 4203. ENFORCEMENT PROCESS.

(a) STATE REQUIREMENT.— Title XVIII of the Social Security Act is amended—

(1) in section 1864(d) (42 U.S.C. 1395ca(d)), as added by section 4201(a)(2) and as amended by section 4202(a)(1) of this Act, by inserting before the period at the end the following: "and the establishment of remedies under sections 1819(h)(2)(B) and 1819(h)(2)(C) (relating to establishment and application of remedies)"; and

(2) by adding at the end of section 1819 of such Act, as added by section 4201(a)(3) and as amended by section 4202(a)(2), the end the following new subsection:

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.— If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a skilled nursing facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

"(A) immediately jeopardize the health or safety of its residents, the State shall recommend to the Secretary that the Secretary take such action as described in paragraph (2)(A)(i); or

3. Excerpts from the Interpretive Guidelines for the new regulations for Skilled and Intermediate Care Facilities. These guidelines provide clearer interpretation of the OBRA '87 requirements for resident's rights to information.
 - a. Tag #F154 to F163 - Notice of Rights and Services.
 - b. Tag #F177 to F180 - Examination of Survey Findings.

Except from Interpretive Guidelines for new regulations
tag # F154 to F163 - Notice of rights

INTERPRETIVE GUIDELINES - SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

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TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
		<p><u>Survey Procedure and Probes: 483.10(a)(2)</u> Attend to resident or staff remarks and staff behavior that may represent deliberate actions to promote or to limit a resident's autonomy or choice, particularly in ways that affect independent functioning. + (Group) How does the facility help you exercise your rights?</p>
F153	<p>(3) In the case of a resident adjudged incompetent under the laws of a State by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed under State law to act on the resident's behalf.</p>	<p><u>Interpretive Guideline: 483.10(a)(3)</u> Defer entirely to State law regarding adjudicated cases. State law takes into account the fact that gradations of incapability exist to which graduated remedies can be adapted.</p> <p><u>Survey Procedure and Probes: 483.10(a)(3)</u> For residents in the sample adjudicated incompetent, is there clear documentation as to whom rights and responsibilities have been assigned? Are pertinent consents and documents signed by appointed guardians? How does the facility and guardians interact in behalf of the rights of a resident adjudged incompetent?</p>
F154	<p><u>(b) Level B requirement: Notice of rights and services.</u></p> <p>(1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility.</p> <p>Such notification must be made prior to or upon admission and during the resident's stay. Receipt of such information, and any amendments to it, must be acknowledged in writing;</p>	<p><u>Interpretive Guideline: 483.10(b)(1)</u> "In a language that the resident understands" means that communication of information concerning rights and responsibilities must be both clear and understandable to the resident and, if the resident's knowledge of English is inadequate for comprehension, in the foreign language familiar to the resident.</p> <p>For foreign languages commonly encountered in the facility locale, the facility must have written translations of its statements of rights and responsibilities, and should make the services of an interpreter available. In the case of less commonly encountered foreign languages, however, a representative of the resident may sign that he or she has interpreted the statement of rights to the resident prior to the resident's acknowledgement of receipt. For hearing impaired residents who communicate by signing, the facility is expected to provide an interpreter. Large print texts of the facility's statement of resident rights and responsibilities should also be available.</p> <p>"Both orally and in writing," means if a resident can read and understand written materials without assistance, an oral summary along with the written document is acceptable.</p> <p>"During the resident's stay" means that if the rules and regulations governing residents' conduct or rights change, the facility updates residents about these changes.</p>

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TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
		<p><u>Survey Procedures and Probes: 483.10(b)(1)</u></p> <ul style="list-style-type: none"> • (Group and Individual) How did you find out about the facility's rules? About your rights here? What did staff say to you about rules? Did you have an opportunity to ask questions? • (Group and Individual) Do you know what the rules are here? Do you know what you can and cannot do? What rules are not clear to you? How do you learn of changes in facility rules and your rights here? <p>If residents are unclear about facility rules, or are unclear about what rights they have in the facility, interview staff to determine their knowledge about residents' rights and responsibilities and their ability to communicate it in a language or methods understood by residents.</p>
F155	(2) The resident has the right to inspect and purchase photocopies of all records pertaining to the resident, upon written request and 48 hours notice to the facility;	<p><u>Interpretive Guidelines: 483.10(b)(2)</u></p> <p>"Purchase" means that residents may be charged for photocopy costs at prevailing community rates.</p> <p>"Records" includes all records pertaining to the resident.</p> <p>"The right to inspect" is conferred to individuals other than the resident based on State law. See 483.10(a)(3).</p> <p>"48 hours notice" means two business days, i.e., excluding weekends and holidays.</p> <p><u>Survey Procedure and Probe: 483.10(b)(2)</u></p> <ul style="list-style-type: none"> • (Group) Are residents able to look at their records if they want to? Are there any delays in the facility honoring these requests? • (Group) Are residents able to get photocopies of something in their records if they offer to pay for these copies? Are there any delays, of more than 48 hours, in the facility honoring these requests?
F156	(3) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition;	<p><u>Interpretive Guideline: 483.10(b)(3)</u></p> <p>"Total health status" includes functional status, medical care, nursing care, nutritional status, rehabilitation and restorative potential, activities potential, cognitive status, oral health status, psychosocial status, and sensory and physical impairments. The resident should be involved in the assessment and care planning process, including the discussion of diagnoses, treatment options, risks, and prognoses. These discussions should be presented in language that the resident can be</p>

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INTERPRETIVE GUIDELINES • SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

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TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
		<p>expected to understand, and the resident must be allowed to make choices based upon the information provided.</p> <p><u>Survey Procedure and Probes: 483.10(b)(3)</u></p> <ul style="list-style-type: none"> + [Individual]* When staff or physician, as appropriate, provide care, what are you told about your treatments? Are you told about how this treatment affects your condition? + [Individual] If your treatment is stopped, are you told how this may affect your condition? + [Individual] How do you find out what medications you receive, what they're for, and what their side effects are? + [Individual] Are you asked for your consent before treatment or drugs are started or stopped?
F157	(4) The resident has the right to refuse treatment, and	<p><u>Interpretive Guideline: 483.10(b)(4)</u></p> <p>A resident's refusal of treatment must be persistent and consistently documented in the resident's record. Refusals of treatment should also be countered by discussions with the resident of the health and safety consequences of the refusal and the availability of any therapeutic alternatives that might exist. If a resident consistently refuses all treatment, discharge on the grounds that the resident's welfare cannot be met in the facility may be the ultimate outcome. Transfer and discharge rights are dealt with under 483.12.</p> <p><u>Survey Procedure and Probes: 483.10(b)(4)</u></p> <ul style="list-style-type: none"> + [Individual] Have you ever refused a medication or a treatment? What happened? How did the staff react? + [Individual] Has the facility offered alternative treatments to the ones you've refused? <p>* NOTE: "[Individual]" in a probe indicates its inclusion as a probe for individual interview.</p>

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TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS

TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
F158	to refuse to participate in experimental research;	<p><u>Interpretive Guideline: 483.10(b)(4)</u> Experimental research means using residents to develop and test clinical treatments, such as a new drug or therapy, that involves treatment and control groups. For example, a clinical trial of a new drug would be experimental research.</p> <p>A resident being considered for participation in experimental research must be fully informed of the nature of the experiment (e.g., medication, treatment) and understand the possible consequences of participating. The individual's or legal representative's written consent must be received prior to participation. Experimental research must respect the privacy of the resident. Any direct observation or use of resident-specific data requires the resident's consent, or for residents adjudicated incompetent under State law, that of the resident's legal representative or family member. Aggregated resident statistics, that do not identify individual residents, may be used for studies without obtaining residents' permission.</p> <p><u>Survey Procedure and Probes: 483.10(b)(4)</u> During the Entrance Conference, ask if the facility participates in any experimental research involving residents as subjects since the last standard survey. If so, <u>does the facility have an Institutional Review Board or other committee that reviews and approves research protocols?</u> In this regard, 483.75(d) <u>Relationship to Other HHS Regulations</u> applies (i.e., the facility must adhere to 45 CFR Part 46, protection of human subjects of research). Also, look for documentation of informed consent.</p>
	(5) the facility must--	<p><u>Interpretive Guideline: 483.10(b)(5) and (6)</u> Periodically means as often as the facility changes its services or the charges for these services.</p>
F159	<p>(1) Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or when the resident becomes eligible for Medicaid of--</p> <p>(A) The items and services that are included in nursing facility services under the State plan and for which the resident may not be charged;</p>	<p>If a Medicare SIF provider believes, on admission or during a resident's stay, that Medicare will not pay for skilled nursing or specialized rehabilitative services, then the facility must inform the resident or their legal representative in writing why these specific services may not be covered. The provider must keep a copy of this letter on file.</p> <p>If the resident requests that the bill be submitted to the intermediary or coverage carrier for a Medicare decision then evidence that this submission has occurred should also appear in the resident's record.</p> <p>Advance notice to the resident of changes in services or charges is not required. Whenever possible, however, advance notification should be given in order to be consistent with the intent of the law, which is to allow residents to be fully</p>

INTERPRETIVE GUIDELINES - SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

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TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
	(B) Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and	<p>Informed of what they owe the facility. Providers must make a good faith effort to inform the resident fully of services and charges and related changes.</p> <p><u>Survey Procedures and Probes: 483.10(b)(5) and (6)</u></p> <ul style="list-style-type: none"> + (Individual) Do you know what things or services you pay for out of your own pocket? Who handles the payment for these items? + (Individual) How do you find out how much these services or things cost? + (Group) Do you or your family receive an explanation of any charges or monthly bills? + (Group) Have there been any changes in the charges since you've been here? How do you find out about those changes? + (Group) How does the facility give you information about your Medicare or Medicaid benefits?
F160	(ii) Inform each resident when changes are made to the items and services specified in paragraphs (5)(i)(A) and (B) of this section.	
F161	(6) The facility must inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate.	<p>If residents are not clear about the scope of services they are entitled to or the additional services provided by the facility and the cost of these services, <u>interview</u> administrative staff to determine how the facility informs residents about their Medicare and Medicaid benefits, the non-covered services the facility provides, and the facility's charges for these services.</p>
	(7) The facility must furnish a written description of legal rights which includes--	<p><u>Survey Procedure and Probes: 483.10(b)(7)</u></p> <ul style="list-style-type: none"> + (Group) Do you know how to contact the State Survey agency or ombudsman?
F162	(i) A description of the manner of protecting personal funds, under paragraph (c) of this section; and	<p>If residents do not know how to contact the State Survey Agency or ombudsman in the event of a complaint, <u>interview</u> administrative staff to determine how the facility informs residents of their legal rights.</p> <p>See 483.10(c) regarding protection of resident funds.</p>
F163	(ii) A statement that the resident may file a complaint with the State survey and certification agency concerning resident abuse, neglect, and misappropriation of resident property in the facility.	

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Excerpt from Int. Guidelines - Exam. of survey results.

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TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
		<p>+ [Individual] Has the facility ever asked you to allow them to release your clinical records to someone other than another health care institution like a hospital or to a health care insurer and you objected? What happened?</p> <p>If residents indicate there is a problem related to release of records, are there blanket consent forms in the record or individual consents?</p>
	<p><u>(f) Level B requirement: Grievances.</u></p> <p>A resident has the right to--</p>	<p><u>Survey Procedure and Probes: 483.10(f)(1)-(2)</u></p> <p>+ [Individual and Group] Have you ever complained formally about anything here?</p> <p>+ [Individual and Group] Who did you complain to? What did you complain about?</p> <p>+ [Individual and Group] If you submitted a written complaint, how did the facility respond?</p> <p>+ [Individual and Group] Was your complaint resolved? Were you satisfied with the facility's resolution of the problem? If the facility could not resolve the problem, did they explain why?</p>
F175	<p>(1) Voice grievances with respect to treatment or care that is, or fails to be furnished, without discrimination or reprisal for voicing the grievances; and</p>	<p>If residents' responses indicate problems in voicing grievances and getting grievances resolved, determine how the facility deals with and resolves resident complaints and grievances. Examine facility policies.</p>
F176	<p>(2) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.</p>	
	<p><u>(g) Level B requirement: Examination of survey results.</u></p> <p>A resident has the right to--</p>	<p><u>Interpretive Guidelines: 483.10(g)(1)-(2)</u></p> <p>"Survey results" means the Statement of Deficiencies (HCFA 2567) and plan of correction, if required. A "place readily accessible to residents" means at eye-level in a central, <u>public</u> space in the facility, such as a lobby, in areas frequently visited by most residents.</p>
F177	<p>(1) Examine the results of the most recent survey of the facility conducted by Federal or State surveyors and any plan of correction in effect with respect to the facility.</p>	<p><u>Survey Procedures and Probes: 483.10(g)(1)-(2)</u></p> <p>Are survey results posted in a place readily accessible to residents?</p> <p>+ [Group] Have you wanted to see the results of the most recent State or Federal survey? Did the facility provide you with this information?</p> <p>+ [Group] Do you know where the survey results are posted?</p>

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INTERPRETIVE GUIDELINES - SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES

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TAG NUMBER	REGULATION	GUIDANCE TO SURVEYORS
F178	The results must be posted by the facility in a place readily accessible to residents; and	<p>+ [Group] How do residents communicate with advocacy agencies in the community? For example, can residents meet with the local nursing home ombudsman when they choose to do so?</p>
F179	(2) Receive information from agencies acting as client advocates, and	
F180	be afforded the opportunity to contact agencies.	
	(h) <u>Level B requirement: Work.</u> The resident has the right to--	
F181	(1) Refuse to perform services for the facility;	<p><u>Interpretive Guideline: 483.10(h)(1)-(2)</u> "Prevailing rate" is the wage paid to non-disabled workers in the community surrounding the facility for essentially the same type, quality, and quantity of work requiring comparable skills.</p> <p>All resident work, whether of a voluntary or paid nature, must be part of the plan of care. A resident's desire for work is subject to discussion of medical appropriateness. As part of the plan of care, a therapeutic work assignment must be formally agreed to by the resident. The resident also has the right to refuse such treatment at any time that he or she wishes. At the time of development or review of the plan, the voluntary or paid nature of the work can be negotiated.</p> <p><u>Survey Procedure and Probes: 483.10(h)(1)-(2)</u> Are residents engaged in what may be paid or volunteer work (e.g., doing housekeeping, doing laundry, preparing meals, cottage industry). Pay special attention to the possible work activities of residents with mental retardation or mental illness. If you observe such a situation, determine if the resident is in fact performing work and, if so, is this work, whether voluntary or paid, described in the plan of care?</p> <p>+ [Group] Do any residents have other types of chores or unpaid duties which they perform here?</p>
F182	<p>(2) Perform services for the facility, if he or she chooses, when--</p> <p>(i) The facility has documented the need or desire for work in the plan of care;</p> <p>(ii) The plan specifies the nature of the services performed and whether the services are voluntary or paid;</p> <p>(iii) Compensation for paid services is at or above prevailing rates; and</p> <p>(iv) The resident agrees to the work arrangement described in the</p>	

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STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

CC
9MB 418

January 16, 1990

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the quality of care in nursing facilities. The bill primarily contains provisions that implement federal requirements that are mandatory in order for Alaska's medicaid program to comply with the federal program, and for nursing facilities in the state to continue to receive medicaid funding. The Alaska medicaid program receives approximately 50 percent federal reimbursement. The total medicaid costs for nursing facilities in the state in FY 90 amount to over \$42,000,000.

Additionally, the bill will help to maintain the high quality of services generally provided in the nursing facilities in this state.

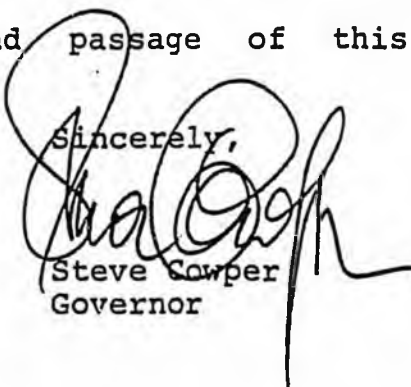
The bill allows the Department of Health and Social Services to impose sanctions against nursing facilities for substantially failing or refusing to comply with basic requirements of state licensing and certification laws for all nursing facilities, or with certification and other requirements for those facilities participating in the medicaid and general relief-medical programs. The sanctions include effects on state licensure and continued participation in the medicaid program. Also, the department could impose a ban on admissions of new patients in a nursing facility, or could assess a civil fine for each day of noncompliance with state or federal statutes or regulations. The bill would also authorize denial of payment for services rendered to medicaid and general relief-medical recipients, whose care is paid for in full or part by state money. The bill also authorizes the department to seek a court-appointed temporary administrator or a receiver to manage a nursing facility until residents

at risk can be removed from the facility or conditions improve at the facility. Finally, the bill authorizes the department to seek a court order to close a facility or transfer residents from the facility, or both, if a significant deficiency occurs affecting residents' health and safety.

The bill establishes a separate fund (the nursing facility resident security fund) into which certain civil fines, assessed by the department under this quality assurance program, will be deposited. Use of money in the fund is limited to the protection of the health or property of residents of nursing facilities found to be out of compliance with federal requirements. Article IX, sec. 7, of the Alaska Constitution prohibits the "dedication" of state revenue for a special purpose, but it provides an exception to this prohibition "when required by the federal government for state participation in federal programs." As a condition of participation in the federal medicaid program, 42 U.S.C. 1396r(h) requires that certain civil fines collected by the department be used only for certain protections of nursing facility residents. The nursing facility resident security fund established by the bill implements this federal requirement and, therefore, meets the criterion for an exception to the dedicated fund prohibition. Passage of this bill would allow the Department of Health and Social Services to comply with federal medicaid requirements, so that the state can continue to receive significant amounts of federal money. It also gives the Department of Health and Social Services an expanded list of sanctions to ensure that a high quality of nursing facility care continues to be offered in Alaska.

I urge your support and passage of this important legislation.

Sincerely,



Steve Cowper
Governor

HB

418

SENATE FINANCE COMMITTEE REPORT

DATE: 5/1/90

FURTHER:

DATE TURNED INTO OFFICE: 5/5/90

The Finance Committee considered

HB 418

"An Act related to quality of care in nursing facilities; establishing a nursing facility resident security fund; and providing for an effective date."

and recommended:

- replace with _____ CS _____ same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) DH:gg 1/15/90

SIGNING DO PASS:

Peace

[Signature]

OTHER RECOMMENDATIONS:

1. [Signature] Do Pass 2. [Signature]
Co-Chairs: Signatures and Recommendations

CC

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to Quality Nursing Care
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Health & Social Services
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-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 if necessary)

Will be ZERO For 1990

Prepared by: Kim Busch, Director *Kim Busch* Phone: 465-3355
Division: Division of Medical Assistance Date: 1/15/90
Approved by Commissioner: Myra M. Munson *Myra M. Munson* Date: 1/15/90
Agency: Department of Health & Social Services

- Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Adopted

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 418

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act related to quality of care in nursing facil-
7 ities; establishing a nursing facility resident
8 security fund; and providing for an effective date."

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

10 * Section 1. AS 18.20.040 is amended to read:

11 Sec. 18.20.040. ISSUANCE AND RENEWAL OF LICENSE AND POSTING.

12 (a) Upon receipt of an application for license and the license fee,
13 the department shall issue a license if the applicant meets the re-
14 quirements established under AS 18.20.060 - 18.20.080. If the appli-
15 cant does not meet the requirements established under AS 18.20.060 -
16 18.20.080 but makes continued efforts to comply with them, the depart-
17 ment may grant a temporary or provisional license for a reasonable
18 period of time. Except as provided in (b) of this section, a [A]
19 license[, UNLESS SUSPENDED OR REVOKED,] is renewable annually without
20 charge upon filing by the licensee, and approval by the department of
21 an annual report on the uniform date and containing the information in
22 the form the department prescribes by regulation. Each license issued
23 is for the premises and person or governmental unit named in the
24 application and is not transferable or assignable except with the
25 written approval of the department. Licenses shall be posted in a
26 conspicuous place on the licensed premises.

27 (b) A license is not renewable if (1) it has been suspended or
28 revoked under AS 18.20.050, or (2) regarding a nursing facility as
29 defined in AS 18.20.390, the department has taken action under

1 AS 18.20.310(a)(5).

2 * Sec. 2. AS 18.20.050 is amended to read:

3 Sec. 18.20.050. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.
4 The department may deny, suspend, or revoke a license in a case in
5 which it finds that there has been a substantial failure to comply
6 with the requirements established under AS 08.64.336 or AS 18.20.060 -
7 18.20.080. The license of a nursing facility, as defined in
8 AS 18.20.390, also may be suspended or revoked by the department under
9 AS 18.20.310(a)(5).

10 * Sec. 3. AS 18.20 is amended by adding new sections to read:

11 ARTICLE 4. QUALITY OF CARE IN NURSING FACILITIES.

12 Sec. 18.20.300. STATE POLICY. It is the policy of the state to
13 ensure that the quality of care in nursing facilities in this state is
14 maintained at a high standard in accordance with applicable state and
15 federal law and regulations and to ensure the health, safety, and
16 quality of life of nursing facility residents in Alaska is maintained
17 or enhanced.

18 Sec. 18.20.305. NURSING FACILITY REGULATIONS. The department
19 shall adopt necessary regulations to implement AS 18.20.300 -
20 18.20.380 in accordance with the Administrative Procedure Act
21 (AS 44.62). The department shall, by regulation, specify criteria as
22 to when and how the sanctions specified in AS 18.20.310 will be ap-
23 plied. The criteria shall provide for the imposition of incrementally
24 more severe penalties for deficiencies that are uncorrected or perva-
25 sive, or that present a threat to the health, safety, or welfare of
26 nursing facility residents.

27 Sec. 18.20.310. SANCTIONS FOR NONCOMPLIANCE. (a) If the de-
28 partment finds that a nursing facility, or a partner, officer, direc-
29 tor, owner of five percent or more of the nursing facility's assets,

1 or managing employee of the nursing facility substantially failed or
2 refused to comply with AS 08.68.340 - 08.68.390, AS 08.70.010 -
3 08.70.190, AS 18.20.010 - 18.20.130, AS 47.07.010 - 47.07.900, or with
4 a regulation adopted under any of those statutes, or, for a nursing
5 facility that provides medicaid services under AS 47.07.010 - 47.07.-
6 900, failed or refused to comply with the medicaid requirements of 42
7 U.S.C. 1396r (Title XIX of the Social Security Act, as amended) or a
8 regulation adopted under that statute, the department may take the
9 following actions:

10 (1) ban the admission of new residents to the nursing facil-
11 ity;

12 (2) as provided in AS 18.20.320, deny payment under
13 AS 47.07.010 - 47.07.900 and AS 47.25.120 - 47.25.300 for any medicaid
14 or general relief-medical resident admitted to the nursing facility
15 after notice by the department of denial of payment; residents who are
16 eligible for medicaid or general relief-medical are not responsible
17 for payment when the department takes action under this paragraph;

18 (3) assess a civil fine in accordance with AS 18.20.340;

19 (4) suspend or terminate the nursing facility's participa-
20 tion in the medicaid program;

21 (5) suspend, revoke, or refuse to renew the nursing facili-
22 ty's license issued under AS 18.20;

23 (6) seek an appointment of temporary administration as
24 provided in AS 18.20.360 or of a receiver under AS 18.20.370;

25 (7) in case of an emergency, seek an order from the court
26 either to close the nursing facility or to transfer residents from
27 that facility, or both.

28 (b) An order of the department imposing a sanction described in

29 (1) (a)(1), (4), or (5) of this section takes effect

1 immediately upon service of the order on the nursing facility;
2 however, if the facility can demonstrate to the department's
3 satisfaction that the deficiencies prompting the order do not
4 jeopardize the health or safety of facility residents or seriously
5 limit the nursing facility's capacity to provide adequate care, the
6 department's order takes effect 10 days after service;

7 (2) (a)(2) or (3) of this section takes effect 10 days
8 after service of the order on the nursing facility.

9 (c) A hearing may be requested under AS 18.20.330 regarding a
10 sanction imposed by the department under this section.

11 Sec. 18.20.320. DENIAL OF PAYMENT. The department shall deny
12 payment under AS 47.07.010 - 47.07.900 or AS 47.25.120 - 47.25.300 to
13 a nursing facility

14 (1) that is not in compliance, and, for the preceding three
15 months, has not been in compliance, with the requirements of 42 U.S.C.
16 1396r (Title XIX of the Social Security Act, as amended), and regu-
17 lations adopted under that statute, until correction of the deficien-
18 cy; or

19 (2) if the department finds, on three consecutive reviews,
20 that the nursing facility provided substandard quality of care; the
21 department shall deny payment under this paragraph for new admissions
22 until the facility has demonstrated to the satisfaction of the depart-
23 ment that it is in compliance with the medicaid requirements of 42
24 U.S.C. 1396r, and that it will remain in compliance with the require-
25 ments.

26 Sec. 18.20.330. APPEAL; HEARING. (a) Notwithstanding
27 AS 44.62.330 - 44.62.630, the department, by regulation, shall estab-
28 lish a hearing procedure by which a nursing facility may present
29 evidence to refute a deficiency found by the department, and by which

1 it may appeal a sanction imposed by order of the department under
2 AS 18.20.310. A request for a hearing must be made in writing within
3 10 days after service of the department's order on the nursing
4 facility. Except for an order that takes effect immediately under
5 AS 18.20.310(b)(1), a request under this subsection has the effect of
6 staying the department's order until the hearing is concluded and the
7 department makes a final determination.

8 (b) An appeal, or request for stay, regarding a sanction imposed
9 by the court under AS 18.20.310(6) or (7), 18.20.360, or 18.20.370,
10 must be filed with the court in accordance with the Rules of Civil
11 Procedure.

12 Sec. 18.20.340. CIVIL FINES. In accordance with regulations
13 adopted by the department under AS 44.62.010 - 44.62.300, the depart-
14 ment may assess and collect, with interest, a civil fine of up to
15 \$10,000 a day for each day a nursing facility is or was out of compli-
16 ance with any of the federal or state statutes or regulations listed
17 in AS 18.20.310. The department shall annually increase the maximum
18 amount of the civil fine authorized in this section by a percentage
19 equal to the percentage of increase in all items of the consumer price
20 index for all urban consumers for Anchorage, Alaska. Each day upon
21 which the same or a substantially similar noncompliance occurs is a
22 separate violation subject to the assessment of a separate civil fine.
23 A civil fine assessed under this section is not reimbursable under
24 AS 47.07.010 - 47.07.900 or AS 47.25.120 - 47.25.300. The department
25 shall deduct the amount of a civil fine from reimbursement due or to
26 be due the nursing facility under AS 47.07.010 - 47.07.900 or
27 AS 47.25.120 - 47.25.300. The department may also use any remedy
28 available under law to pursue collection of an unpaid fine.

29 Sec. 18.20.350. NURSING FACILITY RESIDENT SECURITY FUND. (a)

1 There is established in the department, as a fund separate from other
2 public money of the state, the nursing facility resident security
3 fund. This fund consists of all civil fines collected under
4 AS 18.20.310(a)(3) and 18.20.340 related to noncompliance with 42
5 U.S.C. 1396r(b), (c), or (d), and all interest earned on money in the
6 fund.

7 (b) The nursing facility resident security fund shall be admin-
8 istered by the department. Money in the fund may only be used for the
9 protection of the health or property of residents of nursing facil-
10 ities found to be out of compliance with 42 U.S.C. 1396r(b), (c), or
11 (d), or a regulation adopted under those statutes, including payment
12 for the costs of relocation of residents to other facilities, mainte-
13 nance of operation of a facility pending correction of deficiencies or
14 closure, and reimbursement to a resident for personal money lost.

15 Sec. 18.20.360. TEMPORARY MANAGEMENT. (a) If the department
16 determines that the health or safety of the residents of a nursing
17 facility is immediately jeopardized as the result of the nursing
18 facility's failure or refusal to comply with a state statute or regu-
19 lation, or failure or refusal to comply with the medicaid requirements
20 in 42 U.S.C. 1396r (Title XIX of the Social Security Act) or a regu-
21 lation adopted under that statute, the department shall immediately
22 petition the superior court for an order for appointment of temporary
23 administration to

24 (1) oversee the operation of the facility; and

25 (2) ensure the health and safety of the facility's resi-
26 dents while orderly closure of the facility occurs or the deficiencies
27 necessitating temporary administration are corrected.

28 (b) The court shall grant the petition if it finds by a pre-
29 ponderance of the evidence that the conditions in (a) of this section

1 exist.

2 Sec. 18.20.370. RECEIVERSHIP. (a) The department may petition
3 the superior court for establishment of a receivership for a nursing
4 facility if the department finds that one of the following conditions
5 exists and the current operator has demonstrated an inability or
6 unwillingness to take action necessary to immediately correct the
7 conditions alleged:

8 (1) the facility is operating without a license;

9 (2) the health, safety, or welfare of facility's residents
10 is immediately jeopardized;

11 (3) the facility demonstrates a pattern and practice of
12 violating state or federal statutes or regulations in such a way that
13 minimum resident care is jeopardized.

14 (b) The court shall grant the petition if it finds by a prepon-
15 derance of the evidence that one or more of the conditions in (a) of
16 this section exist and the current operator is unable or unwilling to
17 take action necessary to correct the condition.

18 Sec. 18.20.390. DEFINITIONS. In AS 18.20.300 - 18.20.390,
19 unless the context requires otherwise,

20 (1) "department" means the Department of Health and Social
21 Services;

22 (2) "general relief-medical" means the medical assistance
23 program authorized in AS 47.25.120 - 47.25.300;

24 (3) "nursing facility" means an institution, or a distinct
25 part of an institution, as defined in 42 U.S.C. 1396r;

26 (4) "medicaid" means the medical assistance program
27 authorized in AS 47.07.010 - 47.07.100.

28 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

29

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 16, 1990

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the quality of care in nursing facilities. The bill primarily contains provisions that implement federal requirements that are mandatory in order for Alaska's medicaid program to comply with the federal program, and for nursing facilities in the state to continue to receive medicaid funding. The Alaska medicaid program receives approximately 50 percent federal reimbursement. The total medicaid costs for nursing facilities in the state in FY 90 amount to over \$42,000,000.

Additionally, the bill will help to maintain the high quality of services generally provided in the nursing facilities in this state.

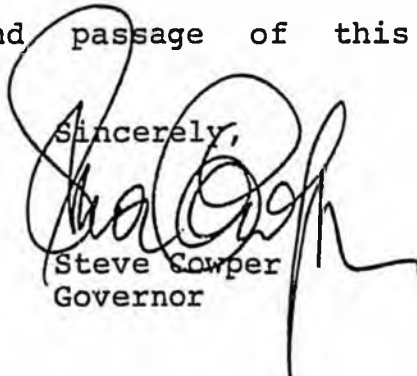
The bill allows the Department of Health and Social Services to impose sanctions against nursing facilities for substantially failing or refusing to comply with basic requirements of state licensing and certification laws for all nursing facilities, or with certification and other requirements for those facilities participating in the medicaid and general relief-medical programs. The sanctions include effects on state licensure and continued participation in the medicaid program. Also, the department could impose a ban on admissions of new patients in a nursing facility, or could assess a civil fine for each day of noncompliance with state or federal statutes or regulations. The bill would also authorize denial of payment for services rendered to medicaid and general relief-medical recipients, whose care is paid for in full or part by state money. The bill also authorizes the department to seek a court-appointed temporary administrator or a receiver to manage a nursing facility until residents

at risk can be removed from the facility or conditions improve at the facility. Finally, the bill authorizes the department to seek a court order to close a facility or transfer residents from the facility, or both, if a significant deficiency occurs affecting residents' health and safety.

The bill establishes a separate fund (the nursing facility resident security fund) into which certain civil fines, assessed by the department under this quality assurance program, will be deposited. Use of money in the fund is limited to the protection of the health or property of residents of nursing facilities found to be out of compliance with federal requirements. Article IX, sec. 7, of the Alaska Constitution prohibits the "dedication" of state revenue for a special purpose, but it provides an exception to this prohibition "when required by the federal government for state participation in federal programs." As a condition of participation in the federal medicaid program, 42 U.S.C. 1396r(h) requires that certain civil fines collected by the department be used only for certain protections of nursing facility residents. The nursing facility resident security fund established by the bill implements this federal requirement and, therefore, meets the criterion for an exception to the dedicated fund prohibition. Passage of this bill would allow the Department of Health and Social Services to comply with federal medicaid requirements, so that the state can continue to receive significant amounts of federal money. It also gives the Department of Health and Social Services an expanded list of sanctions to ensure that a high quality of nursing facility care continues to be offered in Alaska.

I urge your support and passage of this important legislation.

Sincerely,



Steve Cowper
Governor

HB

428

HOUSE COMMITTEE REPORT

File

(11)

Date Referred: January 19, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/30/90

The FINANCE Committee considered:

HB 428

HOUSE BILL NO. 428

APPROP: SUPPLEMENTALS - FY 90 & PRIOR FYS

"An Act making miscellaneous supplemental appropriations for fiscal year 1990 and prior fiscal years; and providing for an effective date."

RECOMMENDATIONS:

- [X] be replaced with CS HB 428 (FIN) [] the same title [X] a new title
- [] have attached amendment(s)
- [X] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____ [] fiscal note(s) _____
- [] zero fiscal note _____ [] zero fiscal note(s) _____
- [] zero with analysis _____ [] zero fn/analysis _____

SIGNING DO PASS:

[Signature] KOPONEN
[Signature] BROWN
[Signature] WIMER
[Signature] HOFFMAN
[Signature] LARSON
[Signature] SWACKHAMMER

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>[Signature]</u> PHILLIPS	✓		
<u>[Signature]</u> RIEGER		✓	
<u>[Signature]</u> SHULTZ		✓	
<u>[Signature]</u> BARNES		9	

[Signature] LARSON
 Chairman's Signature
[Signature] HOFFMAN

Funding Information: General Fund \$50,317,901
 Other Funds 13,115,790
 \$63,433,691

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 428 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous supplemental appro-
 7 priations for fiscal year 1990 and prior fiscal
 8 years; making special appropriations for costs of
 9 Team Alaska and Arctic Winter Games dues; making a
 10 transfer of an account balance within the general
 11 fund; and providing for an effective date."

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

13 * Section 1. The sum of \$642,000 is appropriated from the general fund
 14 to the Department of Administration for longevity bonus payments for the
 15 fiscal year ending June 30, 1990.

16 * Sec. 2. The sum of \$25,000 is appropriated from the general fund to
 17 the Department of Administration, labor relations agency, for increased
 18 legal and administrative costs for the fiscal year ending June 30, 1990.

19 * Sec. 3. The sum of \$738,300 is appropriated from the general fund to
 20 the Department of Administration, pioneers' homes, for increased operating
 21 costs including reclassification costs for nurses and physical therapists
 22 for the fiscal year ending June 30, 1990.

23 * Sec. 4. The sum of \$38,700 is appropriated from the general fund to
 24 the Department of Administration, Older Alaskans Commission, for an arbi-
 25 tration award for the fiscal year ending June 30, 1990.

26 * Sec. 5. The sum of \$193,600 is appropriated from the general fund to
 27 the Department of Administration, public defender agency, to eliminate
 28 forced leave without pay for the fiscal year ending June 30, 1990.

29 * Sec. 6. The sum of \$130,000 is appropriated from the general fund to

1 the Department of Administration, Alaska Public Offices Commission, for a
2 storage, retrieval, and access system for election report data for the
3 fiscal year ending June 30, 1990.

4 * Sec. 7. The sum of \$267,167 is appropriated from the general fund to
5 the Department of Law to pay judgments and claims against the state for the
6 fiscal year ending June 30, 1990.

7 * Sec. 8. The sum of \$267,000 is appropriated from the mental health
8 trust income account in the general fund to the Department of Law to pay
9 increased costs associated with Weiss v. State for the year ending June 30,
10 1990.

11 * Sec. 9. The sum of \$32,774 is appropriated from the general fund to
12 the Department of Revenue to refund additional electric and telephone
13 cooperative tax revenue under AS 10.25.570 for the fiscal year ending
14 June 30, 1989.

15 * Sec. 10. The sum of \$54,500 is appropriated from the general fund to
16 the Department of Revenue, division of child support enforcement, for
17 increased operating costs caused by reduced federal funds for the fiscal
18 year ending June 30, 1990.

19 * Sec. 11. The sum of \$18,495,500 is appropriated from the general fund
20 to the Department of Education for the public school foundation program for
21 the fiscal year ending June 30, 1990.

22 * Sec. 12. The sum of \$1,753,291 is appropriated from the general fund
23 to the Department of Education for the school debt retirement program for
24 fiscal year ending June 30, 1989, and is allocated in the amounts listed
25 below to the following municipalities:

<u>Municipality</u>	<u>Allocation</u>
26 City and Borough of Juneau	\$ 5,968
27 City and Borough of Sitka	130,126
28 North Slope Borough	1,617,197

1 * Sec. 13. The sum of \$3,619,100 is appropriated to the Department of
2 Health and Social Services for additional Medicaid nonfacility program
3 costs for the fiscal year ending June 30, 1990, from the following sources:

4	Federal Receipts	\$1,809,500
5	General Fund Match	1,809,600

6 * Sec. 14. The sum of \$8,524,900 is appropriated to the Department of
7 Health and Social Services for additional Medicaid facilities program costs
8 for the fiscal year ending June 30, 1990, from the following sources:

9	Federal Receipts	\$4,262,400
10	General Fund Match	4,262,500

11 * Sec. 15. The sum of \$3,446,200 is appropriated from federal receipts
12 to the Department of Health and Social Services for additional Indian
13 Health Services Medicaid program costs for the fiscal year ending June 30,
14 1990.

15 * Sec. 16. The sum of \$882,000 is appropriated from federal receipts to
16 the Department of Health and Social Services for additional state program
17 Medicaid costs for the fiscal year ending June 30, 1990.

18 * Sec. 17. The sum of \$100,000 is appropriated to the Department of
19 Health and Social Services, division of medical assistance, central admin-
20 istration, for additional legal costs associated with the federal upper-
21 limit caps on Medicaid nursing home and hospital payment rates for the
22 fiscal year ending June 30, 1990, from the following sources:

23	Federal Receipts	\$50,000
24	General Fund Match	50,000

25 * Sec. 18. The sum of \$672,000 is appropriated to the Department of
26 Health and Social Services, division of medical assistance, claims process-
27 ing, for additional costs associated with increased volume, claims repro-
28 cessing, and implementation of federal OBRA 1989 requirements for the
29 fiscal year ending June 30, 1990, from the following sources:

1 Federal Receipts \$469,600

2 General Fund Match 202,400

3 * Sec. 19. The sum of \$354,400 is appropriated from the general fund to
4 the Department of Health and Social Services, division of public health,
5 nursing program, for additional costs associated with the reclassification
6 of nursing positions for the fiscal year ending June 30, 1990.

7 * Sec. 20. The sum of \$266,800 is appropriated from the general fund/-
8 mental health trust income account to the Department of Health and Social
9 Services, Alaska Psychiatric Institute, for additional costs associated
10 with the reclassification of nursing positions for the fiscal year ending
11 June 30, 1990.

12 * Sec. 21. The sum of \$90,000 is appropriated from the general fund to
13 the Department of Military and Veterans' Affairs for additional costs of
14 the veterans' burial allowance program for the fiscal year ending June 30,
15 1990.

16 * Sec. 22. The sum of \$663,200 is appropriated from the general fund to
17 the Department of Natural Resources for fire suppression costs for the
18 fiscal year ending June 30, 1990.

19 * Sec. 23. The sum of \$500,000 is appropriated to the Department of
20 Natural Resources for overtime costs of emergency fire fighting crews for
21 the fiscal years ending June 30, 1988, and June 30, 1989, from the follow-
22 ing sources:

23 Federal Receipts \$400,000

24 General Fund 100,000

25 * Sec. 24. The sum of \$5,400 is appropriated from Alaska Historical
26 Commission general fund program receipts to the Department of Natural
27 Resources for the fiscal year ending June 30, 1990, for purchase of a
28 license for commercial use of the music used in the film Alaska at War.

29 * Sec. 25. The sum of \$170,600 is appropriated from the general fund to
CSHB 428(Fin)

1 the Department of Fish and Game for the additional costs of operations of
2 the local advisory committees and regional councils for the fiscal year
3 ending June 30, 1990.

4 * Sec. 26. The sum of \$177,500 is appropriated from the general fund to
5 the Department of Fish and Game for additional costs of the Board of Fish-
6 eries and Board of Game and headquarters support for the fiscal year ending
7 June 30, 1990.

8 * Sec. 27. The sum of \$440,400 is appropriated from the general fund to
9 the Department of Public Safety to pay increased contract jail costs for
10 the fiscal year ending June 30, 1990.

11 * Sec. 28. The sum of \$83,100 is appropriated from the general fund to
12 the Department of Public Safety to cover the costs of increased demands for
13 serology evidence testing services at the state crime laboratory for the
14 fiscal year ending June 30, 1990.

15 * Sec. 29. The sum of \$58,100 is appropriated from the general fund to
16 the Department of Public Safety to cover funding shortfalls for maintaining
17 personal identification, criminal history, and police case report informa-
18 tion to Alaska law enforcement agencies for the fiscal year ending June 30,
19 1990.

20 * Sec. 30. The sum of \$137,900 is appropriated from the general fund to
21 the Department of Public Safety to maintain law enforcement agency access
22 to the National Crime Information Center, cover funding shortfalls in the
23 Alaska automated fingerprint identification system and to pay for state
24 participation in the Western Identification Network for the fiscal year
25 ending June 30, 1990.

26 * Sec. 31. The sum of \$238,293 is appropriated from general fund pro-
27 gram receipts received from Exxon Corporation for vessel services provided
28 during the Exxon Valdez oil spill cleanup effort to the Department of
29 Transportation and Public Facilities, Alaska marine highway system, for

1 payment of outstanding bills for the fiscal year ending June 30, 1989.

2 * Sec. 32. The sum of \$95,000 is appropriated from the general fund to
3 the Department of Transportation and Public Facilities, western district
4 highways and aviation, for additional costs associated with the airport
5 maintenance contracts, for the fiscal year ending June 30, 1990.

6 * Sec. 33. The sum of \$2,325,000 is appropriated from the general fund
7 to the Department of Transportation and Public Facilities for the settle-
8 ment agreed to in the Spring Creek Prison claim for the fiscal year ending
9 June 30, 1990.

10 * Sec. 34. The sum of \$6,678,700 is appropriated to the Department of
11 Transportation and Public Facilities, maintenance and operations compo-
12 nents, for additional snow and ice removal costs and extraordinary Spring
13 break-up maintenance work for the fiscal year ending June 30, 1990, from
14 the following sources:

15	General Fund	\$5,800,000
16	Highway working capital fund	878,700

17 * Sec. 35. The sum of \$900,000 is appropriated from the general fund to
18 the Department of Military and Veterans' Affairs, division of emergency
19 services, for snow and ice removal from roads in municipalities for the
20 fiscal year ending June 30, 1990. The division shall allocate this appro-
21 priation to local governments after considering the number of lane miles of
22 roads within the municipal jurisdiction, the annual local government expen-
23 diture for road maintenance, and the climatic conditions within the area
24 during the winter of 1989 - 1990.

25 * Sec. 36. The sum of \$136,000 is appropriated from the general fund to
26 the Department of Transportation and Public Facilities to reimburse the
27 City and Borough of Juneau for repairs and renovation under a Transfer of
28 Responsibility Agreement #H79148.

29 * Sec. 37. The sum of \$294,100 is appropriated to the Department of
CSHB 428(Fin)

1 Community and Regional Affairs, child assistance program, to pay for costs
2 of implementation of the Family Support Act transitional child care bene-
3 fits program for the fiscal year ending June 30, 1990, from the following
4 sources:

5	Interagency Receipts	\$147,000
6	General Fund	147,100

7 * Sec. 38. The sum of \$50,000 is appropriated from the general fund to
8 the Department of Community and Regional Affairs for payment as an orga-
9 nizational grant under AS 29.05.180 to the City of Coffman Cove for the
10 fiscal year ending June 30, 1990.

11 * Sec. 39. The sum of \$24,660 is appropriated from the general fund to
12 the Department of Community and Regional Affairs to pay revenue sharing
13 entitlements for the unincorporated communities of Chignik Lake and Perry-
14 ville for the fiscal year ending June 30, 1990.

15 * Sec. 40. The sum of \$46,000 is appropriated from the general fund to
16 the Department of Community and Regional Affairs, Local Boundary Commis-
17 sion, for the optimum boundaries map project for the fiscal year ending
18 June 30, 1990.

19 * Sec. 41. The sum of \$1,600,000 is appropriated from the general fund
20 to the Department of Corrections for additional major medical expenses for
21 the fiscal year ending June 30, 1990.

22 * Sec. 42. The sum of \$250,000 is appropriated from the general fund to
23 the Department of Corrections to cover funding shortfalls at the Maniilaq
24 Social Rehabilitation Center for the fiscal year ending June 30, 1990.

25 * Sec. 43. The sum of \$25,300 is appropriated from the general fund to
26 the Department of Corrections to pay outstanding fiscal years 1989 and 1990
27 costs and attorney fees for an arbitration settlement with employees of the
28 Southcentral region probation office.

29 * Sec. 44. The sum of \$56,397 is appropriated from the general fund to

1 the Commission on Judicial Conduct for additional operating costs for the
2 fiscal year ending June 30, 1990.

3 * Sec. 45. The sum of \$108,825 is appropriated from the general fund to
4 the following agencies for the fiscal year ending June 30, 1990, to pay
5 miscellaneous claims and stale-dated warrants:

6	Governor	\$ 699
7	Administration	31,759
8	Health and Social Services	37,327
9	Commerce and Economic Development	5,824
10	Military and Veterans' Affairs	4,577
11	Fish and Game	67
12	Public Safety	492
13	Transportation and Public Facilities	24,752
14	Corrections	2,735
15	Legislature	593

16 * Sec. 46. The sum of \$99,000 is appropriated from the dividend fund
17 (AS 43.23.045) to the Department of Revenue, permanent fund dividend divi-
18 sion, for increased operating costs for the fiscal year ending June 30,
19 1990.

20 * Sec. 47. The sum of \$1,090,502 is appropriated from the general fund
21 to the Department of Education for the school debt retirement program for
22 fiscal year ending June 30, 1990, and is allocated in the amounts listed
23 below to the following municipalities:

24	Kodiak Island Borough	\$982,117
25	City and Borough of Sitka	108,385

26 * Sec. 48. The sum of \$80,300 is appropriated from the oil and hazard-
27 ous substance release response fund in the general fund to the Department
28 of Natural Resources, division of geological and geophysical surveys, to
29 analyze the potential for flood hazards to the Drift River tank farm as a
CSHB 428(Fin)

1 result of the eruptions of the Redoubt Volcano for the fiscal year ending
2 June 30, 1990.

3 * Sec. 49. The sum of \$298,000 is appropriated from general fund pro-
4 gram receipts to the Department of Fish and Game, division of fisheries
5 rehabilitation, enhancement, and development, for payment as a grant under
6 AS 37.05.316 to the Prince William Sound Aquaculture Corporation for con-
7 struction of an adult sockeye salmon fish ladder and maturation pond at the
8 Main Bay Hatchery for the fiscal year ending June 30, 1990.

9 * Sec. 50. The sum of \$340,900 is appropriated from federal receipts to
10 the Department of Health and Social Services, Alaska work program, to pay
11 for costs of implementation of the Family Support Act transitional child
12 care benefits program for the fiscal year ending June 30, 1990.

13 * Sec. 51. The sum of \$606,902 is appropriated from the general fund to
14 the Department of Education for the underpayments due to P.L. 81-874 for
15 the public school foundation program for the fiscal year ending June 30,
16 1988.

17 * Sec. 52. The sum of \$397,102 is appropriated from the general fund to
18 the Department of Education for the underpayments due to P.L. 81-874 for
19 the public school foundation program for the fiscal year ending June 30,
20 1989.

21 * Sec. 53. The sum of \$27,000 is appropriated from the general fund to
22 the Department of Education for the boarding home program for full year
23 funding for the fiscal year ending June 30, 1990.

24 * Sec. 54. The sum of \$40,000 is appropriated from the general fund to
25 the Department of Education to implement ch. 7, SLA 1990, relating to
26 background checks for teacher certification applicants for the fiscal year
27 ending June 30, 1990.

28 * Sec. 55. The sum of \$3,312,568 is appropriated from the general fund
29 to the disaster relief fund (AS 44.19.048) for the following purposes:

1	Statewide spring flood disaster - 1989	\$1,011,888
2	Anchorage flood disaster - 1989	805,100
3	Kenai Peninsula Borough flood disaster - 1989	495,580
4	Bering Straits School District, Stebbins School	
5	fire disaster - 1989	1,000,000

6 * Sec. 56. The sum of \$90,000 is appropriated from the general fund to
7 the Department of Administration, public defender agency, for extraordinary
8 felony cases for the fiscal year ending June 30, 1990.

9 * Sec. 57. The sum of \$173,900 is appropriated from the international
10 airports revenue fund to the Department of Transportation and Public Facil-
11 ities, Anchorage International Airport, for costs associated with the
12 University of Alaska, Geophysical Institute monitoring of the Mount Redoubt
13 Volcano for the period February 1, 1990, through June 30, 1990.

14 * Sec. 58. The sum of \$30,000 is appropriated from the general fund to
15 the Department of Corrections for payment of the Cleary Monitor for the
16 fiscal year ending June 30, 1990.

17 * Sec. 59. The sum of \$13,630 is appropriated from the general fund to
18 the Department of Revenue to refund additional aviation fuel revenue to the
19 Municipality of Anchorage under AS 43.40.010 for the fiscal year ending
20 June 30, 1989.

21 * Sec. 60. The sum of \$426,290 is appropriated from the general fund to
22 the Department of Education for repayment to the federal government for
23 fiscal year 1987 audit exceptions.

24 * Sec. 61. The sum of \$76,290 is appropriated from the dividend fund
25 (AS 43.23.045) to the Department of Revenue, permanent fund dividend divi-
26 sion, to implement the provisions of the stipulation associated with
27 Lindley v. Malone (3AN-90-2586 Civ.).

28 * Sec. 62. The sum of \$148,600 is appropriated from the general fund to
29 the Alaska Court System for extraordinary expenses resulting from State. v.

1 Amerada Hess, et al. (1JU-77-847 Civ.) for the fiscal year ending June 30,
2 1990.

3 * Sec. 63. The unobligated and unappropriated balance in the mental
4 health trust income account on June 30, 1990, (AS 37.14.011 and 37.14.021)
5 is transferred to the unreserved portion of the general fund on July 1,
6 1990.

7 * Sec. 64. The sum of \$200,000 is appropriated from the general fund to
8 the Department of Fish and Game, division of wildlife conservation, for
9 moose habitat enhancement, improvement of access to browse for moose, and
10 research, development, and implementation of proposals to reduce moose
11 mortality, including railroad related mortality, in Southcentral Alaska.

12 * Sec. 65. The sum of \$100,000 is appropriated from the general fund to
13 the Office of the Governor for transportation and other costs of Team
14 Alaska.

15 * Sec. 66. The sum of \$25,000 is appropriated from the general fund to
16 the Office of the Governor for dues for the Arctic Winter Games.

17 * Sec. 67. The sum of \$200,000 is appropriated from the general fund to
18 the Department of Community and Regional Affairs to fully fund the property
19 tax equivalency payment program (AS 29.45.040) for the fiscal year ending
20 June 30, 1990.

21 * Sec. 68. The unexpended and unobligated balances of the appropria-
22 tions made by secs. 65 and 66 of this Act lapse into the general fund
23 June 30, 1992.

24 * Sec. 69. The unexpended and unobligated balance of the appropriation
25 made by sec. 61 lapses into the dividend fund (AS 43.23.045) June 30, 1991.

26 * Sec. 70. The appropriations made by secs. 49 and 64 of this Act are
27 for capital projects and are subject to AS 37.25.020.

28 * Sec. 71. This Act takes effect immediately under AS 01.10.070(c).

29



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

APRIL 29, 1990
PROPOSED AMENDMENTS

CS HB 428 (FIN)

SECTION 8. THE SUM OF \$267,000 IS APPROPRIATED FROM THE MENTAL HEALTH TRUST INCOME ACCOUNT IN THE GENERAL FUND TO THE DEPARTMENT OF LAW TO PAY INCREASED COSTS ASSOCIATED WITH WEISS V STATE FOR THE YEAR ENDING JUNE 30, 1990.

SECTION 35. THE SUM OF \$900,000 IS APPROPRIATED FROM THE GENERAL FUND TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS, DIVISION OF EMERGENCY SERVICES <TRANSPORTATION AND PUBLIC FACILITIES, MAINTENANCE AND OPERATIONS COMPONENT>, FOR SNOW AND ICE REMOVAL FROM ROADS IN MUNICIPALITIES FOR THE FISCAL YEAR ENDING JUNE 30, 1990. FUNDS SHALL BE ALLOCATED TO LOCAL GOVERNMENTS IN CONSIDERATION OF THE NUMBER OF LANE MILES OF ROADS WITHIN THE MUNICIPAL JURISDICTION, THE ANNUAL LOCAL GOVERNMENT EXPENDITURE FOR ROAD MAINTENANCE AND THE CLIMATIC CONDITIONS WITHIN THE AREA DURING THE WINTER OF 1989-1990.

SECTION 48. THE SUM OF \$80,300 IS APPROPRIATED FROM THE OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND <GENERAL FUND> TO THE DEPARTMENT OF NATURAL RESOURCES, DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS, TO ANALYZE THE POTENTIAL FOR FLOOD HAZARDS TO THE DRIFT RIVER TANK FARM AND TO CONDUCT ADDITIONAL HYDROLOGICAL EVALUATIONS NECESSARY AS A RESULT OF THE ERUPTIONS OF THE REDOUBT VOLCANO FOR THE FISCAL YEAR ENDING JUNE 30, 1990.

SECTION 55. THE SUM OF \$2,312,568 <\$4,187,098> IS APPROPRIATED FROM THE GENERAL FUND TO THE DISASTER RELIEF FUND (AS 44.19.048) FOR THE FOLLOWING PURPOSES:

<SOUTHCENTRAL FLOOD DISASTER - 1986	\$1,874,530>
STATEWIDE SPRING FLOOD DISASTER - 1989	1,011,888
ANCHORAGE FLOOD DISASTER - 1989	805,100
KENAI PENINSULA BOROUGH FLOOD DISASTER -1989	495,580

SECTION 57. THE SUM OF \$173,900 IS APPROPRIATED FROM THE INTERNATIONAL AIRPORT REVENUE FUND <GENERAL FUND> TO THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, ANCHORAGE INTERNATIONAL AIRPORT <MILITARY AND VETERANS AFFAIRS, EMERGENCY SERVICES,> FOR COSTS ASSOCIATED WITH THE UNIVERSITY

OF ALASKA, GEOPHYSICAL INSTITUTE MONITORING OF THE MOUNT
REDOUBT VOLCANO FOR THE PERIOD FEBRUARY 1, 1990, THROUGH JUNE
30, 1990.

ADD A NEW SECTION TO READ:

SEC. 62. THE SUM OF \$148,600 IS APPROPRIATED FROM THE GENERAL
FUND TO THE ALASKA COURT SYSTEM FOR EXTRAORDINARY EXPENSES
RESULTING FROM STATE V AMERADA HESS, ET AL (1JU-77-847 CIV)
FOR THE FISCAL YEAR ENDING JUNE 30, 1990.

SEC. 63. THE UNOBLIGATED AND UNAPPROPRIATED BALANCE IN THE
MENTAL HEALTH TRUST INCOME ACCOUNT ON JUNE 30, 1990, (AS
37.14.011 AND 37.14.021) IS TRANSFERRED TO THE UNRESERVED
PORTION OF THE GENERAL FUND ON JULY 1, 1990.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. DONLEY

TO: HB 428

Page 9, following line 22:

Insert the following new bill sections to read:

"* Sec. 57. The sum of \$1,800,000 is appropriated from the general fund to the Department of Commerce and Economic Development, division of tourism, for international airport marketing for the fiscal year ending June 30, 1990.

* Sec. 58. The sum of \$2,000,000 is appropriated from the general fund to the Alaska Tourism Marketing Council for a domestic tourism marketing program for the fiscal year ending June 30, 1990.

* Sec. 59. The sum of \$50,000 is appropriated from the general fund to the Alaska Tourism Marketing Council for the 1990 International Travel Fair for the fiscal year ending June 30, 1990."

Renumber the following bill section accordingly.

4/25/90

CS HB 428 (Fin)
Renter Rebate Increment-Decrement 2

AMENDMENT

by BROWN

page 8, line 18

delete "general fund"

insert "Oil and Hazardous Substance Release Response Fund"

page 8, line 21

delete "and to conduct additional hydrological evaluations necessary"

page 9, line 29

delete "general fund"

insert "International Airport Revenue Fund"

Insert new section:

"Section ____ . The sum of \$229,400 is appropriated from the general fund to the Department of Community and Regional Affairs to fully fund the property tax equivalency payment program (AS 29.45.040) for the fiscal year ending June 30, 1990."

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF BUDGET REVIEW

STEVE COWPER, GOVERNOR

POUCH AM
JUNEAU, ALASKA 99811
PHONE: (907) 465-3568

April 27, 1990

The Honorable Ron Larson
The Honorable Lyman Hoffman
Co-Chairman, House Finance Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: House Bill 428 Supplemental
Amendment #6

Dear Representatives Larson and Hoffman:

I have listed below additional amendments to House Bill 428. These amendments reference the 4/21/90 work draft of House Bill 428.

Amend Section 13 to read:

*Sec. 13. The sum of \$3,619,100 [\$4,639,100] is appropriated to the Department of Health and Social Services for additional Medicaid nonfacility program costs for the fiscal year ending June 30, 1990 from the following sources:

Federal Receipts	<u>\$1,809,500</u> [\$2,319,500]
General Fund Match	<u>1,809,600</u> [2,319,600]

Amend Section 14 to read:

*Sec. 14. The sum of \$8,524,900 [\$10,504,900] is appropriated to the Department of Health and Social Services for additional Medicaid facilities program costs for the fiscal year ending June 30, 1990 from the following sources:

Federal Receipts	<u>\$4,262,400</u> [\$5,252,400]
General Fund Match	<u>4,262,500</u> [5,252,500]

Amend Section 18 to read:

*Sec. 18. The sum of \$672,000 [\$539,000] is appropriated to the Department of Health and Social Services, division of medical assistance, claims processing, for additional costs associated with increased volume, claims reprocessing, and implementation of

Supplemental Amend. #6

2

April 27, 1990

federal OBRA 1989 requirements for the fiscal year ending June 30, 1990 from the following sources:

Federal Receipts	<u>\$469,600</u> [\$336,600]
General Fund Match	202,400

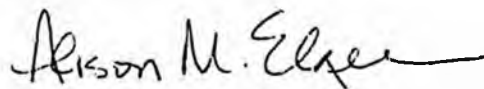
Amend sec. 37 to read:

*Sec. 37. The sum of \$294,100 [\$681,900] is appropriated to the Department of Community and Regional Affairs, child assistance program, to pay for costs of implementation of the Family Support Act transitional child care benefits program for the fiscal year ending June 30, 1990, from the following sources:

Interagency Receipts	<u>\$147,000</u> [\$340,900]
General Fund	<u>147,100</u> [341,000]

The net effect of these amendments is to reduce the supplementals requested by \$1,560,900 in other funds, and \$1,693,900 in general funds. If you have any questions, please feel free to contact me.

Sincerely,



Alison M. Elgee
Director

Attachments

cc: Senator Johne Binkley
Senator Rick Uehling
Co-Chairmen, Senate Finance
Committee
Carol Collins
House Finance Committee
Mike Greany, Legislative Finance

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET DIVISION OF BUDGET REVIEW

STEVE COWPER, GOVERNOR

POUCH AM
JUNEAU, ALASKA 99811
PHONE: (907) 465-3568

April 20, 1990

The Honorable Ron Larson
The Honorable Lyman Hoffman
Co-Chairman, House Finance Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: House Bill 428 Supplemental
Amendment #5

Dear Representatives Larson and Hoffman:

I have listed below additional amendments to House Bill 428. Please find the appropriate backup for these changes attached.

Technical Changes

* Sec. 10. The sum of \$267,167 [\$240,784] is appropriated from the general fund to the Department of Law to pay judgments and claims against the state for the fiscal year ending June 30, 1990.

* Sec. 11. The sum of \$267,000 [\$160,000] is appropriated from the general fund to the Department of Law to pay increased costs associated with Weiss v. State for the year ending June 30, 1990.

* Sec. 23. The sum of \$539,000 [\$967,000] is appropriated to the Department of Health and Social Services, Division of Medical Assistance, Claims Processing, for additional costs associated with increased volume, claims reprocessing and implementation of federal OBRA 1989 requirements for the fiscal year ending June 30, 1990, from the following sources:

Federal Receipts	<u>\$336,600</u> [657,600]
General Fund Match	<u>\$202,400</u> [\$309,400]

April 20, 1990

Deletion:

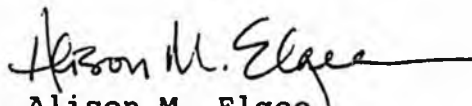
DELETE section 17 (Department of Health and Social Services, Old Age Assistance -- Alaska Longevity Bonus Hold Harmless - \$213,100).

New Section:

* Sec. _____. The sum of \$295,290 is appropriated from the Permanent Fund Dividend Fund to the Department of Revenue, permanent fund dividend division, to implement the provisions of the stipulation associated with Lindley v. Malone (Case No. 3AN-90-2586 Civil) for fiscal years 1990 and 1991. The appropriation lapses June 30, 1991.

The net effect of these amendments is to reduce the supplementals requested by \$25,710 in other funds, and \$186,717 in general funds. If you have any questions, please feel free to contact me.

Sincerely,


Alison M. Elgee
Director

Attachments

cc: Senator John Binkley
Senator Rick Uehling
Co-Chairmen, Senate Finance
Committee
Carol Collins
House Finance Committee
Mike Greany, Legislative Finance

STATE OF ALASKA
OFFICE OF MANAGEMENT & BUDGET
DIVISION OF BUDGET REVIEW

DATE: 04/20/90
TIME: 13:42:52
PROG: F90SUPL2

Page 1 of GOVERNOR'S FY '90 SUPPLEMENTAL REQUESTS, BY BILL SECTION

SECTION	AMENDED	AGENCY	TITLE	GENERAL FUND	OTHER FUNDS	TOTAL	
0	Y	DCED	Purchase of Locomotives and Rolling Stock	9,000,000	0	9,000,000	
	Y	DEC	VSW: Kotzebue Repairs to Water System/1990 Winter Freeze-up	2,826,700	0	2,826,700	
	Y	DFG	Main Bay Hatchery Brood Stock Maturation Facility Constructn	298,000	0	298,000	
	Y	DHSS	Alaska Work Programs: Family Support Act (Welfare Reform)	0	340,900	340,900	
	Y	DMVA	Disaster Relief Fund: 1986 Southcentral Flood Disaster	1,874,530	0	1,874,530	
	Y	DMVA	Disaster Relief Fund: 1989 Spring Flood Disaster (Statewide)	1,011,888	0	1,011,888	
	Y	DMVA	Disaster Relief Fund: 1989 Anchorage Flood Disaster	805,100	0	805,100	
	Y	DMVA	Disaster Relief Fund: 1989 Kenai Peninsula Flood Disaster	495,580	0	495,580	
	Y	DMVA	Mt. Redoubt Volcano Monitoring 02/01/90 - 06/30/90	173,900	0	173,900	
	Y	DNR	Redoubt Volcano/Drift River Study	80,300	0	80,300	
	Y	DOA	Public Defender: Extraordinary Felony Cases	90,000	0	90,000	
	Y	DOC	Cleary Monitor	30,000	0	30,000	
	Y	DOE	Debt Retirement: Kodiak and Sitka FY90	1,090,500	0	1,090,500	
	Y	DOE	K-12 Boarding Home Program FY90 Full Cost	27,000	0	27,000	
	Y	DOE	Implementation of HB 52, FY90 Fiscal Impact	40,000	0	40,000	
	Y	DOE	FY '87 Audit Exception Payments to Federal Government	426,290	0	426,290	
	Y	REV	Permanent Fund Dividend Division FY '90 Operating Costs	0	99,000	99,000	
	Y	REV	Anchorage FY '89 Aviation Fuel Revenue Refund	13,630	0	13,630	
	Y	REV	Implement PFD Stipulation Provisions of Lindley v. Malone	0	295,290	295,290	
				18,283,418	735,190	19,018,608	Sum
1	Y	DOA	Longevity Bonus: Grants (6758.0 in Ch. 17)	7,400,000	0	7,400,000	
				7,400,000	0	7,400,000	Sum
2	Y	DOA	Office of Public Advocacy: FY89 (Funded Ch. 17)	249,200	0	249,200	
				249,200	0	249,200	Sum
3	Y	DOA	Office of Public Advocacy: FY90 (Funded Ch. 17)	950,000	0	950,000	
				950,000	0	950,000	Sum
4		DOA	Labor Relations Agency: Amend Legal/Administrative Contracts	25,000	0	25,000	

SECTION	AMENDED	AGENCY	TITLE	GENERAL FUND	OTHER FUNDS	TOTAL	
				25,000	0	25,000	Sum
5		DOA	Pioneers' Homes: Increased Salaries and Operations Costs	738,300	0	738,300	
				738,300	0	738,300	Sum
6		DOA	Older Alaskans Commission: Arbitration Award	38,700	0	38,700	
				38,700	0	38,700	Sum
7	Y	DOA	Public Defender: Attorneys' LWOP	193,600	0	193,600	
				193,600	0	193,600	Sum
8		DOA	Alaska Public Offices Commission: Elections Report Data	130,000	0	130,000	
				130,000	0	130,000	Sum
9		DOA	1988 Columbus Day Arbitration Award	370,900	0	370,900	
				370,900	0	370,900	Sum
10	Y	LAW	Judgements and Claims	267,167	0	267,167	
				267,167	0	267,167	Sum
11	Y	LAW	Attorney General's Office: Weiss v. State	267,000	0	267,000	
				267,000	0	267,000	Sum
12	Y	LAW	Reimburse Gov. Sheffield's Legal Expenses (Funded Ch. 17)	302,653	0	302,653	
				302,653	0	302,653	Sum
13		REV	Shared Taxes: Electric and Telephone Cooperative Tax FY89	32,774	0	32,774	
				32,774	0	32,774	Sum
14		REV	Child Support Enforcement Division: (Gramm-Rudman-Hollings)	54,500	0	54,500	

SECTION	AMENDED	AGENCY	TITLE	GENERAL FUND	OTHER FUNDS	TOTAL	
				54,500	0	54,500	Sum
15		DOE	Foundation Funding: Increased Enrollment	17,858,100	0	17,858,100	
	Y	DOE	Foundation Funding: Underpayments Due to PL81-874 for FY88	606,902	0	606,902	
	Y	DOE	Foundation Funding: Underpayments Due to PL81-874 for FY89	397,102	0	397,102	
	Y	DOE	Foundation Funding: FY90 Student Count Adjustment PL 81-874	637,400	0	637,400	
				19,499,504	0	19,499,504	Sum
16		DOE	Debt Retirement: Juneau/Sitka/North Slope FY89	1,753,300	0	1,753,300	
				1,753,300	0	1,753,300	Sum
18	Y	DHSS	Medical Assistance: Medicaid Non-Facility Shortfall	2,319,600	2,319,500	4,639,100	
				2,319,600	2,319,500	4,639,100	Sum
19	Y	DHSS	Medical Assistance: Medicaid Facilities Shortfall	5,252,500	5,252,400	10,504,900	
				5,252,500	5,252,400	10,504,900	Sum
20		DHSS	Medical Assistance: Indian Health Services Shortfall	0	3,446,200	3,446,200	
				0	3,446,200	3,446,200	Sum
21		DHSS	Medical Assistance: State Programs Shortfall	0	882,000	882,000	
				0	882,000	882,000	Sum
22		DHSS	Medical Assistance Central Administration: Legal Costs	50,000	50,000	100,000	
				50,000	50,000	100,000	Sum
23	Y	DHSS	Medical Assistance Admin: Claims Processing Shortfall	202,400	336,600	539,000	
				202,400	336,600	539,000	Sum
24		DHSS	State Health Services: Nursing Position Reclassification	354,400	0	354,400	
				354,400	0	354,400	Sum

SECTION	AMENDED	AGENCY	TITLE	GENERAL FUND	OTHER FUNDS	TOTAL	
25		DHSS	Institutions & Administration: API Nursing Position Reclass	266,800	0	266,800	
				266,800	0	266,800	Sum
30		DMVA	Veterans Death Gratuity; Program Underfunding	90,000	0	90,000	
				90,000	0	90,000	Sum
31	Y	DMVA	Disaster Relief Fund: FY90 (Funded Ch. 17)	2,000,000	0	2,000,000	
				2,000,000	0	2,000,000	Sum
32		DNR	Division of Forest Management: Fire Suppression	663,200	0	663,200	
				663,200	0	663,200	Sum
33		DNR	Division of Forest Management: Emergency Fire Fighters	100,000	400,000	500,000	
				100,000	400,000	500,000	Sum
34		DNR	Alaska Historical Commission: Alaska at War	5,400	0	5,400	
				5,400	0	5,400	Sum
35		DFG	Division of Boards Reorganization	384,000	0	384,000	
				384,000	0	384,000	Sum
36		DPS	Municipal Jail Contracts: Request for Additional Funding	440,400	0	440,400	
				440,400	0	440,400	Sum
37		DPS	Laboratory Services: Crime Lab Request for Funding	83,100	0	83,100	
				83,100	0	83,100	Sum
38		DPS	Law Enforcement Support: information Systems	58,100	0	58,100	
				58,100	0	58,100	Sum

SECTION	AMENDED	AGENCY	TITLE	GENERAL FUND	OTHER FUNDS	TOTAL	
39		DPS	Law Enforcement Support: Crime Information Systems	137,900	0	137,900	
				137,900	0	137,900	Sum
40		DPS	Motor Vehicles: Veterans License Plates	21,800	0	21,800	
				21,800	0	21,800	Sum
41			Permanent Fund Dividend Fund Reimbursement	1,500,000	0	1,500,000	
				1,500,000	0	1,500,000	Sum
42		DOT	Alaska Marine Highway System: FY89 Unpaid Bills	238,293	0	238,293	
				238,293	0	238,293	Sum
43	Y	DOT	Alaska Marine Highway System: FY89 Level (Funded Ch. 17)	3,250,000	0	3,250,000	
				3,250,000	0	3,250,000	Sum
44	Y	DOT	Western Highways & Aviation: Airport Maintenance Contracts	50,000	0	50,000	
				50,000	0	50,000	Sum
45		DOT	Spring Creek Prison Claim	2,325,000	0	2,325,000	
				2,325,000	0	2,325,000	Sum
46	Y	DOT	Snow and Ice Control/Spring Break-up Maintenance	6,630,300	878,700	7,509,000	
				6,630,300	878,700	7,509,000	Sum
47		DOT	City and Borough of Juneau	136,000	0	136,000	
				136,000	0	136,000	Sum
48	Y	DCRA	Family Support Act: Implement Child Care Benefits - April 1	341,000	340,900	681,900	
				341,000	340,900	681,900	Sum

SECTION	AMENDED	AGENCY	TITLE	GENERAL FUND	OTHER FUNDS	TOTAL	
49		DCRA	Coffman Cove Incorporation Grant of \$50,000	50,000	0	50,000	
				50,000	0	50,000	Sum
50		DCRA	State Revenue Sharing Aid to Unincorporated Community Grants	24,660	0	24,660	
				24,660	0	24,660	Sum
51		DCRA	Local Boundary Commission: Optimum Boundaries Map Project	46,000	0	46,000	
				46,000	0	46,000	Sum
52		DOC	Major Medical: Full Funding	1,600,000	0	1,600,000	
				1,600,000	0	1,600,000	Sum
53		DOC	Statewide Programs: Manilaq Rehabilitation Center	250,000	0	250,000	
				250,000	0	250,000	Sum
54		DOC	Southcentral Probation: Arbitration Settlement	25,300	0	25,300	
				25,300	0	25,300	Sum
55	Y	ACS	Alaska Commission on Judicial Conduct: Proceedings	56,397	0	56,397	
				56,397	0	56,397	Sum
56		DCED	Miscellaneous Claims	5,824	0	5,824	
		DFG	Miscellaneous Claims	67	0	67	
		DHSS	Miscellaneous Claims	37,327	0	37,327	
	Y	DMVA	Miscellaneous Claims	4,577	0	4,577	
	Y	DOA	Miscellaneous Claims and State-Dated Warrants	31,759	0	31,759	
	Y	DOC	Miscellaneous Claims	2,735	0	2,735	
	Y	DOT	Miscellaneous Claims	24,752	0	24,752	
		DPS	Division of Administrative Services: Miscellaneous Claims	492	0	492	
		GOV	Human Rights Commission: Miscellaneous Claims	699	0	699	
		LEG	Legislative Affairs Agency: Miscellaneous Claims	593	0	593	

SECTION AMENDED AGENCY

TITLE

GENERAL FUND	OTHER FUNDS	TOTAL	
108,825	0	108,825	Sum
79,617,391	14,641,490	94,258,881	Sum

STATE OF ALASKA
OFFICE OF MANAGEMENT & BUDGET
DIVISION OF BUDGET REVIEW

DATE: 04/20/90
TIME: 13:11:25
PRG: F90SUPL1

Page 1 of FY '90 SUPPLEMENTAL APPROPRIATION REQUEST WORKSHEET

DEPT	SEC	AMEND	TITLE	AGENCY GF	AGENCY OF	AGENCY TOTAL	OMB GF	OMB OF	OMB TOTAL	
	41		Permanent Fund Dividend Fund Reimbursement	1,500,000	0	1,500,000	1,500,000	0	1,500,000	
				1,500,000	0	1,500,000	1,500,000	0	1,500,000	Sum
ACS	55	Y	Alaska Commission on Judicial Conduct: Proceedings	56,397	0	56,397	56,397	0	56,397	
				56,397	0	56,397	56,397	0	56,397	Sum
DCED	56		Miscellaneous Claims	5,824	0	5,824	5,824	0	5,824	
DCED	0	Y	Purchase of Locomotives and Rolling Stock	9,000,000	0	9,000,000	9,000,000	0	9,000,000	
				9,005,824	0	9,005,824	9,005,824	0	9,005,824	Sum
DCRA	48	Y	Family Support Act: Implement Child Care Benefits - April 1	341,000	340,900	681,900	341,000	340,900	681,900	
DCRA	49		Coffman Cove Incorporation Grant of \$50,000	50,000	0	50,000	50,000	0	50,000	
DCRA	50		State Revenue Sharing Aid to Unincorporated Community Grants	24,660	0	24,660	24,660	0	24,660	
DCRA	51		Local Boundary Commission: Optimum Boundaries Map Project	46,000	0	46,000	46,000	0	46,000	
				461,660	340,900	802,560	461,660	340,900	802,560	Sum
DEC	0	Y	VSM: Kotzebue Repairs to Water System/1990 Winter Freeze-up	2,826,700	0	2,826,700	2,826,700	0	2,826,700	
				2,826,700	0	2,826,700	2,826,700	0	2,826,700	Sum
DFG	35		Division of Boards Reorganization	384,000	0	384,000	384,000	0	384,000	
DFG	56		Miscellaneous Claims	787	0	787	67	0	67	
DFG	0	Y	Main Bay Hatchery Brood Stock Maturation Facility Constructn	298,000	0	298,000	298,000	0	298,000	
				682,787	0	682,787	682,067	0	682,067	Sum
DHSS	17	Y	Assistance Payments: OAA-ALB Hold Harmless	0	0	0	0	0	0	
DHSS	18	Y	Medical Assistance: Medicaid Non-Facility Shortfall	2,319,600	2,319,500	4,639,100	2,319,600	2,319,500	4,639,100	
DHSS	19	Y	Medical Assistance: Medicaid Facilities Shortfall	5,252,500	5,252,400	10,504,900	5,252,500	5,252,400	10,504,900	
DHSS	20		Medical Assistance: Indian Health Services Shortfall	0	3,446,200	3,446,200	0	3,446,200	3,446,200	
DHSS	21		Medical Assistance: State Programs Shortfall	0	882,000	882,000	0	882,000	882,000	
DHSS	22		Medical Assistance Central Administration: Legal Costs	50,000	50,000	100,000	50,000	50,000	100,000	

DEPT	SEC	AMEND	TITLE	AGENCY GF	AGENCY OF	AGENCY TOTAL	OMB GF	OMB OF	OMB TOTAL	
DHSS	23	Y	Medical Assistance Admin: Claims Processing Shortfall	202,400	336,600	539,000	202,400	336,600	539,000	
DHSS	24		State Health Services: Nursing Position Reclassification	354,400	0	354,400	354,400	0	354,400	
DHSS	25		Institutions & Administration: API Nursing Position Reclass	266,800	0	266,800	266,800	0	266,800	
DHSS	56		Miscellaneous Claims	37,327	0	37,327	37,327	0	37,327	
DHSS	0	Y	Alaska Work Programs: Family Support Act (Welfare Reform)	0	340,900	340,900	0	340,900	340,900	
				8,483,027	12,627,600	21,110,627	8,483,027	12,627,600	21,110,627	Sum
DMVA	56	Y	Miscellaneous Claims	4,577	0	4,577	4,577	0	4,577	
DMVA	30		Veterans Death Gratuity: Program Underfunding	90,000	0	90,000	90,000	0	90,000	
DMVA	0	Y	Disaster Relief Fund: 1986 Southcentral Flood Disaster	1,874,530	0	1,874,530	1,874,530	0	1,874,530	
DMVA	0	Y	Disaster Relief Fund: 1989 Spring Flood Disaster (Statewide)	1,011,888	0	1,011,888	1,011,888	0	1,011,888	
DMVA	0	Y	Disaster Relief Fund: 1989 Anchorage Flood Disaster	805,100	0	805,100	805,100	0	805,100	
DMVA	0	Y	Disaster Relief Fund: 1989 Kenai Peninsula Flood Disaster	495,580	0	495,580	495,580	0	495,580	
DMVA	31	Y	Disaster Relief Fund: FY90 (Funded Ch. 17)	2,000,000	0	2,000,000	2,000,000	0	2,000,000	
DMVA	0	Y	Mt. Redoubt Volcano Monitoring 02/01/90 - 06/30/90	173,900	0	173,900	173,900	0	173,900	
				6,455,575	0	6,455,575	6,455,575	0	6,455,575	Sum
DNR	32		Division of Forest Management: Fire Suppression	663,200	0	663,200	663,200	0	663,200	
DNR	56	Y	Division of Management: Miscellaneous Claims	0	0	0	0	0	0	
DNR	33		Division of Forest Management: Emergency Fire Fighters	100,000	400,000	500,000	100,000	400,000	500,000	
DNR	0		Division of Parks/Outdoor Recreation: Castle Hill Expense	9,365	0	9,365	0	0	9,365	
DNR	34		Alaska Historical Commission: Alaska at War	5,400	0	5,400	5,400	0	5,400	
DNR	0	Y	Redoubt Volcano/Drift River Study	80,300	0	80,300	80,300	0	80,300	
				858,265	400,000	1,258,265	848,900	400,000	1,248,900	Sum
DOA	1	Y	Longevity Bonus: Grants (6758.0 in Ch. 17)	7,400,000	0	7,400,000	7,400,000	0	7,400,000	
DOA	5		Pioneers' Homes: Increased Salaries and Operations Costs	738,300	0	738,300	738,300	0	738,300	
DOA	6		Older Alaskans Commission: Arbitration Award	38,700	0	38,700	38,700	0	38,700	
DOA	7	Y	Public Defender: Attorneys' LMOP	242,800	0	242,800	193,600	0	193,600	
DOA	2	Y	Office of Public Advocacy: FY89 (Funded Ch. 17)	249,200	0	249,200	249,200	0	249,200	
DOA	3	Y	Office of Public Advocacy: FY90 (Funded Ch. 17)	950,000	0	950,000	950,000	0	950,000	
DOA	4		Labor Relations Agency: Amend Legal/Administrative Contracts	25,000	0	25,000	25,000	0	25,000	
DOA	8		Alaska Public Offices Commission: Elections Report Data	130,000	0	130,000	130,000	0	130,000	
DOA	56	Y	Miscellaneous Claims and State-Issued Warrants	31,759	0	31,759	31,759	0	31,759	
DOA	0		Alaska Public Broadcasting Commission: Increased Costs	734,500	0	734,500	0	0	734,500	
DOA	9		1988 Columbus Day Arbitration Award	370,900	0	370,900	370,900	0	370,900	
DOA	0	Y	Public Defender: Extraordinary Felony Cases	90,000	0	90,000	90,000	0	90,000	

DEPT	SEC	AMEND	TITLE	AGENCY GF	AGENCY OF	AGENCY TOTAL	OMB GF	OMB OF	OMB TOTAL	
				11,001,159	0	11,001,159	10,217,459	0	10,217,459	Sum
DOC	54		Southcentral Probation: Arbitration Settlement	25,300	0	25,300	25,300	0	25,300	
DOC	52		Major Medical: Full Funding	1,600,000	0	1,600,000	1,600,000	0	1,600,000	
DOC	53		Statewide Programs: Maniilaq Rehabilitation Center	250,000	0	250,000	250,000	0	250,000	
DOC	56	Y	Miscellaneous Claims	2,735	0	2,735	2,735	0	2,735	
DOC	0	Y	Clery Monitor	30,000	0	30,000	30,000	0	30,000	
				1,908,035	0	1,908,035	1,908,035	0	1,908,035	Sum
DOE	15		Foundation Funding: Increased Enrollment	17,858,100	0	17,858,100	17,858,100	0	17,858,100	
DOE	16		Debt Retirement: Juneau/Sitka/North Slope FY89	1,753,300	0	1,753,300	1,753,300	0	1,753,300	
DOE	0	Y	Debt Retirement: Kodiak and Sitka FY90	1,090,500	0	1,090,500	1,090,500	0	1,090,500	
DOE	56	Y	Miscellaneous Claims	0	0	0	0	0	0	
DOE	15	Y	Foundation Funding: Underpayments Due to PL81-874 for FY88	606,902	0	606,902	606,902	0	606,902	
DOE	15	Y	Foundation Funding: Underpayments Due to PL81-874 for FY89	397,102	0	397,102	397,102	0	397,102	
DOE	0	Y	K-12 Boarding Home Program FY90 Full Cost	27,000	0	27,000	27,000	0	27,000	
DOE	0	Y	Implementation of HD 52, FY90 Fiscal Impact	40,000	0	40,000	40,000	0	40,000	
DOE	15	Y	Foundation Funding: FY90 Student Count Adjustment PL 81-874	637,400	0	637,400	637,400	0	637,400	
DOE	0	Y	FY '87 Audit Exception Payments to Federal Government	426,290	0	426,290	426,290	0	426,290	
				22,836,594	0	22,836,594	22,836,594	0	22,836,594	Sum
DOL	29	Y	Labor Market Information: 1990 Census	0	0	0	0	0	0	
DOL	28	Y	Workers' Compensation: Injured Worker	0	0	0	0	0	0	
DOL	26	Y	Wage and Hour - Contractual Hearing Officers	0	0	0	0	0	0	
DOL	27	Y	Occupational Safety & Health - Contractual Attorney	0	0	0	0	0	0	
				0	0	0	0	0	0	Sum
DOT	42		Alaska Marine Highway System: FY89 Unpaid Bills	238,293	0	238,293	238,293	0	238,293	
DOT	43	Y	Alaska Marine Highway System: FY89 Level (Funded Ch. 17)	3,250,000	0	3,250,000	3,250,000	0	3,250,000	
DOT	44	Y	Western Highways & Aviation: Airport Maintenance Contracts	95,700	0	95,700	50,000	0	50,000	
DOT	45		Spring Creek Prison Claim	2,325,000	0	2,325,000	2,325,000	0	2,325,000	
DOT	0		Statewide Research	400,000	0	400,000	0	0	0	
DOT	56	Y	Miscellaneous Claims	24,752	0	24,752	24,752	0	24,752	
DOT	0		Dalton Highway & Aviation: Fund Source Change	3,500,000	0	3,500,000	0	0	0	
DOT	0		Dalton Facilities: Fund Source Change	940,000	0	940,000	0	0	0	
DOT	46	Y	Snow and Ice Control/Spring Break-up Maintenance	6,630,300	878,700	7,509,000	6,630,300	878,700	7,509,000	

DEPT	SEC	AMEND	TITLE	AGENCY GF	AGENCY OF	AGENCY TOTAL	OMB GF	OMB OF	OMB TOTAL	
DOT	47		City and Borough of Juneau	136,000	0	136,000	136,000	0	136,000	
				17,540,045	878,700	18,418,745	12,654,345	878,700	13,533,045	Sum
DPS	56		Division of Administrative Services: Miscellaneous Claims	492	0	492	492	0	492	
DPS	36		Municipal Jail Contracts: Request for Additional Funding	440,400	0	440,400	440,400	0	440,400	
DPS	39		Law Enforcement Support: Crime Information Systems	137,900	0	137,900	137,900	0	137,900	
DPS	38		Law Enforcement Support: Information Systems	58,100	0	58,100	58,100	0	58,100	
DPS	37		Laboratory Services: Crime Lab Request for Funding	83,100	0	83,100	83,100	0	83,100	
DPS	40		Motor Vehicles: Veterans License Plates	21,800	0	21,800	21,800	0	21,800	
				741,792	0	741,792	741,792	0	741,792	Sum
GOV	56		Human Rights Commission: Miscellaneous Claims	699	0	699	699	0	699	
				699	0	699	699	0	699	Sum
LAH	0		Oil and Gas Litigation: Amerada Hess	8,605,800	0	8,605,800	0	0	0	
LAH	11	Y	Attorney General's Office: Meiss v. State	267,000	0	267,000	267,000	0	267,000	
LAH	10	Y	Judgements and Claims	267,167	0	267,167	267,167	0	267,167	
LAH	12	Y	Reimburse Gov. Sheffield's Legal Expenses (Funded Ch. 17)	302,653	0	302,653	302,653	0	302,653	
				9,442,620	0	9,442,620	836,820	0	836,820	Sum
LEG	56		Legislative Affairs Agency: Miscellaneous Claims	593	0	593	593	0	593	
				593	0	593	593	0	593	Sum
REV	13		Shared Taxes: Electric and Telephone Cooperative Tax FY89	32,774	0	32,774	32,774	0	32,774	
REV	14		Child Support Enforcement Division: (Gross-Rudman-Hollings)	54,500	0	54,500	54,500	0	54,500	
REV	0	Y	Permanent Fund Dividend Division FY '90 Operating Costs	0	99,000	99,000	0	99,000	99,000	
REV	0	Y	Anchorage FY '89 Aviation Fuel Revenue Refund	13,630	0	13,630	13,630	0	13,630	
REV	0	Y	Implement PFD Stipulation Provisions of Lindley v. Malone	0	295,290	295,290	0	295,290	295,290	
				100,904	394,290	495,194	100,904	394,290	495,194	Sum
UA	0		Alaska Native Language Center: Siberian Yupik (Siberia)	29,100	0	29,100	0	0	0	
				29,100	0	29,100	0	0	0	Sum

DEPT	SEC	AMEND	TITLE	AGENCY GF	AGENCY OF	AGENCY TOTAL	OMB GF	OMB OF	OMB TOTAL	
				93,931,776	14,641,490	108,573,266	79,617,391	14,641,490	94,258,881	Sum

INCREMENT/DECREMENT DESCRIPTION (Limit to 98 characters)
 FY90 Supplemental - Amendment - Weiss v. State

AGENCY CONTACT/PHONE NUMBER:

Ronald W. Lorensen, Deputy Attorney General / 465-3600

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

This is to amend the Department of Law's request for an FY90 supplemental appropriation to pay court-awarded costs and fees to the plaintiffs in Weiss v. State. The department had previously requested \$160,000 for this purpose based on the premise that the Weiss dispute would follow a mid-course somewhere between a settlement path and a litigation path. Accordingly, monthly costs were estimated to be about \$22,000. However, recent events have shown that the dispute is now heading on a litigation path and plaintiffs' monthly costs had more than doubled by March and are predicted to reach \$50,000 per month in April, May and June. The department originally received \$211,100 to pay these costs for FY90. However, an arrearage of nearly \$100,000 was carried forward from FY89. Because of the dramatic increase in costs, which occurred in March, supplemental funds in the amount of \$267,000 will now be required. An explanation of the events leading to this increase has been received from the plaintiffs' lead attorney, and it is attached for your review. As you are aware, these are court-mandated costs and, for the most part, they are outside the state's control.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services		
400	Supplies		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.	267.0	
800	Miscellaneous		
TOTAL			
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	267.0	
1005	GF/Program Receipts		
1007	I-A Receipts		
POSITION INFORMATION	PFT		
	PPT		
	Non Permanent		
	Staff Months		
<input type="checkbox"/> Enhance Existing Service <input checked="" type="checkbox"/> Compared to FY 90		<input type="checkbox"/> Formula Program New Facility Oper.	
<input type="checkbox"/> New Service Compared to FY 90			
<input type="checkbox"/> Continuation of FY 90 Service Level			
IMPACT FROM CAPITAL PROJECT (NAME)			
Chapter _____ SLA _____ Page/Line _____			

C5 INCREMENT/DECREMENT REQUEST
 Agency Priority _____ of _____

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Administration and Support
 PROJECT _____

FY 91

Page 1 of 1
 Revised Date: 04/17/90

DAVID T. WALKER
ATTORNEY AT LAW
MENDENHALL BUILDING
326 FOURTH STREET, SUITE B
JUNEAU, ALASKA 99801
(907) 586-3537

April 16, 1990

HAND DELIVERED

Richard I. Pegues, Director
Department of Law
Administrative Services Division
P. O. Box K, MS 0300
Juneau, Alaska 99811

Re: Weiss, et al v. State
4FA-82-2208 Civil

Dear Mr. Pegues:

When we last met to discuss the Plaintiffs' projected expenditures report I considered this litigation was well along on the settlement track. As you know, the legislature passed Chapter 48 (Ch. 48 SLA 1987) providing a proposed settlement mechanism. A vital part of that mechanism was the valuation of the Mental Health Trust Lands under procedures approved by the Interim Mental Health Trust Commission. The Commission approved the procedures. The State has balked. A substantial controversy has developed.

I believe that all the parties now agree that the settlement envisioned by Chapter 48 may not be accomplished. I must take every action necessary to protect my clients' interest and the remaining mental health trust corpus. There has been some press coverage of this matter and the legislature is generally aware that the settlement may be derailed. The political maneuvering has increased and the litigation has heated up. For example, the State recently sought to enjoin the Plaintiffs from challenging title to certain mental health trust lands. That issue is presently before Judge Greene. There are two bills before the legislature which would enact the valuation of the trust lands under the procedures approved by the Interim Mental Health Trust Commission. As of now, the fate of those bills is uncertain.

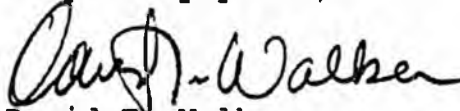
It appears that we are moving into a new phase in the resolution of the issues in this case. This phase will involve more litigation. The estimates I previously provided were based upon the assumption of a continued drive for settlement with a low level of litigation expenses. That assumption is no longer appropriate. I believe we

Richard I. Pegues, Director
April 16, 1990
Page 2

must assume that the litigation effort will be stepped up substantially. That will necessitate an increase in the supplemental appropriation required to fund the litigation for the balance of this fiscal year as well as an increased level of appropriation for fiscal year 1991. The Plaintiffs' litigation expenses for last month, a time of increased activity, amounted to approximately \$42,500, or more than twice the amount originally anticipated. Most of that amount is attributable to attorney time. I anticipate that for the balance of this fiscal year the time commitment of Plaintiffs' lawyers will be at least as great as it was in March. We may well require the additional use of experts and technical assistance. For these reasons I believe it would be prudent to assume that the Plaintiffs will incur legal expenses of \$50,000 a month for April, May and June of this fiscal year.

Thank you.

Very truly yours,


David T. Walker

DTW:ndp

INCREMENT/DECREMENT DESCRIPTION (Limit to 98 characters)
FY90 Judgments Supplemental - Second Amended Request

AGENCY CONTACT/PHONE NUMBER:

Ronald W. Lorensen, Deputy Attorney General / 465-3600

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

This is to request that the amount of the supplemental appropriation to pay judgments against the state be increased to \$267,167.44. This increase is requested in order to pay four new judgments that have been received since the Department of Law's last request of March 15, 1990. A revised listing of the current pending judgments is attached.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services		
400	Supplies		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.	267.2	
800	Miscellaneous		
TOTAL			
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	267.2	
1005	CF/Program Receipts		
1007	I-A Receipts		
POSITION INFORMATION	PFT		
	PPT		
	Non Permanent		
	Staff Months		
<input type="checkbox"/> Enhance Existing Service <input checked="" type="checkbox"/> Compared to FY 90		<input type="checkbox"/> Formula <input type="checkbox"/> Program <input type="checkbox"/> New <input type="checkbox"/> Facility <input type="checkbox"/> Oper.	
<input type="checkbox"/> New Service Compared <input checked="" type="checkbox"/> to FY 90			
<input type="checkbox"/> Continuation of FY 90 <input checked="" type="checkbox"/> Service Level			
IMPACT FROM CAPITAL PROJECT (NAME) <hr/> Chapter _____ SLA _____ Page/Line _____			

**C5 INCREMENT/
 DECREMENT
 REQUEST**
 Agency Priority _____ of _____

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations
 PROJECT _____

FY 91

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 Revised Date: 04/20/90