

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

977

51

FISCAL NOTE

No. 1

Bill Version: HB 151

(H) Publish Date: 2/24/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to payment by indigent BRU: Trial Courts
person for legal services and related costs Components: _____
 Sponsor: House Judiciary
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0


POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Division: Alaska Court System Date: 02/18/93

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 02/18/93
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

8-LS06180 ✓

Luckhaupt

4/6/93

*adopted
4-26-93
revised*

SENATE CS FOR CS FOR HOUSE BILL NO 151()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to payment by indigent persons for services of representation
2 and court costs; providing for stays of enforcement of a judgment during the
3 pendency of an appeal of a conviction; allowing petitions for remission, reduction,
4 or deferral of judgment; permitting a court to remit or reduce a judgment or
5 to change the method of payment; and providing for an effective date."

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

7 * Section 1. AS 18.85.120(c) is amended to read:

8 (c) [UPON THE PERSON'S CONVICTION, THE] The court may enter a
9 judgment that a person for whom counsel is appointed pay for [THE NECESSARY]
10 services [AND FACILITIES] of representation and court costs. If a person is
11 convicted, enforcement of a judgment under this subsection may be stayed by the
12 trial court or the appellate court during the pendency of an appeal [AND COURT
13 COSTS, BUT EXECUTION OF THE JUDGMENT MAY NOT COMMENCE UNTIL

1 THREE YEARS AFTER RELEASE OF THE DEFENDANT FROM
2 INCARCERATION UNLESS FOR GOOD CAUSE SHOWN, THE COURT
3 CONSIDERS IT APPROPRIATE TO EXECUTE EARLIER]. Upon a showing of
4 financial hardship, the court (1) shall allow a person subject to a judgment entered
5 under this subsection to make payments under a payment schedule; (2) shall allow a
6 person subject to a judgment entered under this subsection to petition the court
7 at any time for remission, reduction, or deferral of the unpaid portion of the
8 judgment; and (3) may remit or reduce the balance owing on the judgment or
9 change the method of payment if the payment would impose manifest hardship
10 on the person or the person's immediate family. Payments made under this
11 subsection shall be paid into the state general fund.

12 * Sec. 2. REPORT TO THE LEGISLATURE. The Alaska Supreme Court shall report to
13 the legislature not later than February 1, 1996, on the imposition of judgments for payment
14 of services of representation and court costs provided by AS 18.85.120(c). At a minimum,
15 the report must contain information, compiled from the effective date of this Act, concerning
16 the number of cases in which judgments have been entered for the payment of services of
17 representation and court costs, the total amount of judgments for payment of services of
18 representation and court costs imposed, the amount collected, the number of cases in which
19 judgments have been remitted or reduced, and the number of cases where payment schedules
20 have been established.

21 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Back-up

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
 AT _____

() STATE OF ALASKA)
 ())
)
 Plaintiff,)
)
 vs.)
)
)
 Defendant.)
 _____)

CASE NO. _____ CR
 REQUEST FOR APPOINTED COUNSEL

I wish to have a lawyer and cannot afford to pay for one. I request that the court appoint a lawyer to represent me.

STATEMENT OF FINANCIAL RESPONSIBILITY

I understand that if the court decides I am able to pay for part of the costs of my defense (lawyer's services and other costs), the court may order me to pay for these items.

FINANCIAL STATEMENT

Name _____ Phone _____
 Address _____ Date of Birth _____
 _____ Soc. Sec. No. _____
 Present employer _____
 (If not now employed, state last employer and date terminated.)

Employer _____
 Address _____ Phone _____

Member of Union yes no Which One? _____

I. DEPENDENTS	Name	Age	Relationship
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

II. INCOME INFORMATION (after taxes, but before other deductions)	Yourself	Your Spouse
a. Current Monthly Income	_____	_____
b. Income during last 12 months:	_____	_____
Wages	_____	_____
Public Assistance	_____	_____
Unemployment	_____	_____
Other _____	_____	_____
(specify)	_____	_____
TOTAL YEARLY INCOME	_____	_____

III. FAMILY ASSETS - Present Value

Cash on hand or in bank _____
 Land, buildings, or trailers _____
 Motor vehicles _____
 Securities: stocks, bonds, notes _____
 Businesses _____
 Snow machines, boats, airplanes _____

 TOTAL ASSETS _____

IV. FAMILY DEBTS

Mortgages _____
 Loans _____
 IRS _____
 Child support arrearages _____
 Others (charge cards, bills, etc.) _____

 TOTAL DEBT _____

V. MONTHLY EXPENSES

Food _____
 Rent _____
 Utilities _____
 Car payments _____
 Furniture & TV payments _____
 Child support or alimony _____
 Mortgages _____
 Loans _____
 IRS back taxes _____
 Others (charge card, bills, etc.) _____

TOTAL EXPENSES: _____

GENERAL WAIVER

I authorize anyone, including my past employers, to release to the Alaska Court System all information concerning any income source I have had for a period of three years immediately preceding my first court appearance in which an appointed lawyer is representing me.

OATH

I declare, under oath, that I have read or have had read to me the state of Financial Responsibility on page one and the above General Waiver, and I understand them. I further declare, under oath, that the above Financial Statement is true.

I understand that this Financial Statement may be made available to the Attorney General after the conclusion of this case, and that if I give false information in this statement, the false information may be used to prosecute me for perjury under Alaska Statute 11.56.200.

_____ Date

_____ Defendant's Signature

Subscribed and sworn to or affirmed before me on _____, 19 _____,
 at _____, Alaska.

(SEAL)

 Clerk of Court, Notary Public or other person
 authorized to administer Oaths.
 My commission expires: _____

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____

() STATE OF ALASKA.
()

Plaintiff,

vs.

Defendant.

CASE NO. _____ CR

JUDGMENT FOR COST OF
APPOINTED COUNSEL

DOB: _____

IT IS ORDERED that defendant pay to plaintiff \$_____ for the cost of appointed counsel. This judgment shall accrue interest at the annual rate of 10.5 % from the date of judgment until paid. Payment shall be made directly to the plaintiff at the address indicated at the bottom of this form and not to the court.

If defendant refused or failed to execute the assignment of defendant's Alaska Permanent Fund dividend as ordered by the court, the clerk of court or the clerk's designee is ordered to execute the assignment pursuant to Criminal Rule 39 and Civil Rule 70.

Defendant is ordered to apply for Alaska Permanent Fund dividends every year in which defendant is an Alaska resident eligible for a dividend until the judgment is paid in full. If defendant fails to apply, defendant may be held in contempt of court. Criminal Rule 39(c)(2)(D).

This judgment has the same force and effect as a judgment in a civil action.

- Enforcement may begin three years after defendant is released from incarceration.
- The court finds good cause not to delay enforcement of this judgment because the defendant is not being incarcerated or is being incarcerated for a period of time that should not affect defendant's ability to pay the judgment.
- _____
- This judgment may be enforced at any time because it is entered under Criminal Rule 39(e).

After this judgment is collected, the plaintiff shall file a satisfaction of judgment.

Effective Date
(at least 10 days after date of Notice)

Judge

Type or Print Judge's Name

I certify that on _____
a copy of this judgment was sent to:

Defendant

AC's Collections Unit, 1031 W 4th Ave, Suite 200, Anchorage, AK 99501. Phone: 269-5205

Collections Office, _____
(address) (city) (state) (ZIP) (phone)

Clerk: _____



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

April 19, 1993

303 K Street
Anchorage, AK 99501
(907) 264-8228

The Honorable Drue Pearce, Co-chair
The Honorable Steve Frank, Co-chair
Senate Finance Committee
P. O. Box V
Juneau, Alaska 99811

Dear Senator Pearce and Senator Frank:

I am writing to request that the Finance Committee schedule House Bill 151, relating to payments by indigent persons for legal services and related costs. This bill was introduced by the House Judiciary Committee at the request of the Alaska Supreme Court.

Under both the United States and Alaska Constitutions, a criminal defendant has the right to an attorney. If he cannot afford an attorney, the state must appoint one to represent him. In Alaska, defense services for indigents are generally provided by the Public Defender or the Office of Public Advocacy.

Until 1990, AS 18.85.120(c) authorized a court to order a defendant to pay for defense services, to the extent that the defendant could afford to pay. For a variety of reasons, this statute was ineffective in obtaining repayment of defense costs from indigent defendants. These reasons included the difficulty and expense of enforcing this type of repayment order, and the fact that the statute related to a defendant's current ability to pay, ignoring his future ability. This was very restrictive when compared to the system used in many other states, which allow a court to order repayment from a defendant's future earnings.

In 1990, at the request of the judicial branch, the legislature amended AS 18.85.120(c) to allow civil judgments to be entered against defendants who are represented by the public defender or OPA without considering the defendants' current ability to pay. If a defendant became solvent at a future date, the judgment could be enforced; if not, the judgment could not be enforced. This change ensured that indigent defendants would receive counsel, but that they would repay some of the costs of that representation if they were no longer indigent at some later date. However, one major problem with this revision was that it allowed a three-year moratorium on repayment to follow a defendant's release from incarceration.

The Honorable Drue Pearce
The Honorable Steve Frank
April 19, 1993
Page 2

CSHB 151 (FIN) proposes several changes to AS 18.85.120(c). First, it would eliminate the three-year moratorium on repayment that follows incarceration. This moratorium makes it substantially more difficult for the state to recover defense costs in a timely manner, it imposes a significant administrative burden on the Department of Law, and the policy behind it is questionable. There is no reason, for example, to grant a grace period to a person who is sentenced to 72 hours in jail for a DWI; that person does not need three years to get back on his feet. Even in the case of defendants incarcerated for longer terms, the three-year period is an arbitrary length of time. Many persons will have substantial income soon after leaving prison, and virtually all will receive permanent fund dividend checks during the three-year period. Additionally, many persons leave the state by the third year following their release from incarceration, and then there is no hope of ever recovering defense costs.

Second, CSHB 151 (FIN) codifies language currently contained in Criminal Rule 39. This language is intended to ensure that the repayment requirement is imposed in a fair manner. It includes a provision which allows a court to stay enforcement of a repayment judgment during the pendency of a defendant's appeal; a provision which allows a person subject to a repayment judgment to petition the court at any time to remit, reduce or defer the unpaid portion of the judgment upon a showing of financial hardship; and a provision which allows a court to remit or reduce the balance owing on the judgment or change the method of payment if the payment would impose manifest hardship on the person or the person's immediate family.

Like all judgment debtors, a person subject to a repayment order would have a certain amount of property and income automatically protected from seizure by the Alaska Exemptions Act (AS 09.38). This act ensures that low-income debtors are protected from the unreasonable demands of creditors. A defendant's income, including the permanent fund dividend, could also be protected under the "manifest hardship" procedure discussed above.

Thank you for your courtesy. Please let me know if I can provide any additional information.

Very truly yours,

C. S. Christensen III *blu*

C. S. Christensen III
Staff Counsel

SECTIONAL ANALYSIS

CSHB 151 (FIN)

"An Act relating to payment by indigent persons for services of representation and court costs; providing for stays of enforcement of a judgment during the pendency of an appeal of a conviction; allowing petitions for remission, reduction or deferral of judgment; permitting a court to remit or reduce a judgment or to change the method of payment; and providing for an effective date."

- Section 1.** Amends AS 18.85.120(c), relating to the repayment of the costs of representation by indigent defendants, by eliminating the three year moratorium on repayment which follows release from incarceration; authorizes repayment to be stayed during the pendency of a defendant's appeal; authorizes a defendant to make repayments under a repayment schedule upon a showing of financial hardship; authorizes a defendant to petition the court for remission, reduction or deferral of the unpaid portion of a repayment order upon a showing of financial hardship; and authorizes a court to remit or reduce the balance owing on a repayment order upon a showing of manifest hardship to the defendant or the defendant's family.
- Section 2.** Requires the Alaska Supreme Court to report to the legislature no later than February 1, 1996 on the imposition of judgments for payment of services of representation provided for by AS 18.85.120(c).
- Section 3.** Immediate effective date.

HB

153

SFIN

FILE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

No. 2
Bill Version: CSHB 153(JUD)
(H) Publish Date: 4/8/94

Revision Date: _____ Dept. Affected: Corrections
Title: Special good time reductions for prisoners BRU: Statewide Operations
Sponsor: House Judiciary Committee Component: Pt. MacKenzie
Requestor: Representative Barnes Component Serial #: 1884

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXP.	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXP	0.0	0.0	0.0	0.0	0.0	0.0
-------------	-----	-----	-----	-----	-----	-----

CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
---------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

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

ANALYSIS: Please see the attached explanation.

Prepared by: Diane Schenker, Special Assistant **COMMITTEE COPY** Phone: 465-4643/786-2147
Division: Office of the Commissioner Date: 4/7/94
Approved by: J. Frank Prewitt, Jr., Commissioner Date: 4/7/94
Agency: Department of Corrections Page 1 of 4

5. Award of good time, on a monthly basis after the fact, would require an individual entry on the time accounting sheet in each prisoner record at the Project every month, followed by an individual computer entry into the OBSCIS system revising each prisoner's release date each month. It is estimated that the time accounting function for 100-150 prisoners will require approximately two full days of staff time, which will have to be absorbed by existing staff at Pt. MacKenzie. If staffing or training in time accounting is inadequate, the following issues will become further complicated:

Good time earned during the final month would not be awarded until after the prisoner is released, so it would only benefit a prisoner whose probation or parole is revoked, who would receive a credit towards the next period of incarceration. Equal protection issues may be raised by prisoners who satisfactorily complete 30 days or more in the program, but whose time straddles two calendar months, and who do not receive the special good time credit awarded to prisoners who complete a calendar month. Since the release dates of Pt. MacKenzie participants will change every month, notification of victims, police, furlough review, and other pre-release requirements which hinge on the final release date will become more complex.

6. A list of prisoners serving time at the Project on April 6, 1994 (Attachment A) reveals 52 prisoners with a total of 428 full calendar months remaining between July 1, 1994 and their release dates. If each prisoner earned the full "special good time" credit of three days per full month, a total of 1,248 inmate days (or 3.5 inmate-years) would be saved between July 1, 1994 and May 1998 when the latest release date for this population occurs, or slightly less than 1 inmate-year (1 bed) per year. Since the population at Pt. MacKenzie is expected to double this year, it is assumed that a savings of 2 inmate-years or 2 beds would result.

7. It is assumed that some prisoners would eventually move from Pt. MacKenzie to a CRC on furlough status, so that not all of the remaining sentence length would result in the full reduction of special good time. However, because untreated sex offenders are ineligible for prerelease furloughs at this time, and comprise over a third of the Pt. MacKenzie population, a substantial number would be likely to remain at the Project for the duration of sentence, earning the maximum award of special good time. (However, a prisoner who fails to participate in a court-ordered rehabilitation program which was made available to the prisoner is subject to losing all earned good time through a parole revocation hearing, under AS 33.15.220. The number of prisoners at Pt. MacKenzie to whom this provision applies cannot be determined without individual file reviews.)

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

No. 2
Bill Version: CSHB 153 (JUD)
(H) Publish Date: 4/8/94

Revision Date:	_____	Dept. Affected:	Corrections
Title:	Special good time reductions for prisoners	BRU:	Statewide Operations
Sponsor:	House Judiciary Committee	Component:	Pt. MacKenzie
Requestor:	Representative Barnes	Component Serial #:	1884

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXP.	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXP	0.0	0.0	0.0	0.0	0.0	0.0
-------------	-----	-----	-----	-----	-----	-----

CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
---------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTLA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

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

ANALYSIS: Please see the attached explanation.

Prepared by: Diane Schenker, Special Assistant
Division: Office of the Commissioner
Approved by: J. Frank Prewitt, Jr., Commissioner
Agency: Department of Corrections

COMMITTEE COPY

Phone: 465-4643/786-2147

Date: 4/7/94

Date: 4/7/94

Page 1 of 4

The bill would allow prisoners who voluntarily serve time at the Pt. MacKenzie Rehabilitation Project to receive three days of "special good time" for each month of satisfactory participation. The good time would be awarded during the month after it was earned, and would be awarded only for a full month of participation. The good time would be forfeited in whole or in part if the prisoner is involuntarily removed from the Project due to inappropriate behavior. The Department would be required to describe and post or distribute a description of appropriate and inappropriate behavior. The Commissioner would be authorized to proceed with adoption of regulations to implement the bill immediately, and the provisions of the bill and the regulations would go into effect July 1, 1994.

Assumptions

1. It is assumed that the award of special good time will serve as an incentive for more prisoners to volunteer to go to Pt. MacKenzie, enabling the Department to make better utilization of the Project, and thus helping to relieve emergency overcrowding in correctional institutions.
2. Availability of a special privilege (reduction in sentence) may necessitate offering this opportunity to female prisoners to avoid discrimination litigation. Staffing patterns will have to be reviewed to determine if adequate staff exist on site to properly supervise a mixed gender population. If inadequate staffing exists, the probability of security problems increases, such as sexual contact between male and female inmates, and may lead to medical expenses (pregnancies, sexually transmitted diseases, etc.)
3. Removal of a prisoner from a rehabilitative program requires due process, i.e., notice, a hearing, and opportunity for the prisoner to comment, etc., Ferguson v. State, 1816 P. 2d 134, (Alaska 1991). The demand for due process hearings is expected to increase when loss of a privilege, such as reduction in sentence, is tied to program removal. It is assumed that the staff time required for hearings can be absorbed by existing staff at Pt. MacKenzie and other institutions. If not, and hearings are not accomplished due to lack of staff time, increased litigation will result.
4. Policies and procedures governing time accounting would be revised. Policies will need to clarify the bill's reference to acceptable and unacceptable behavior; program removal procedures, etc. Regulations could not be completed prior to the effective date of the bill, but would be developed after policies and procedures are in place. The department plans to contract for policy and procedure and regulation coordination in FY95; if funding for these functions is cut these duties will have to be absorbed by Pt. MacKenzie staff. If adequate policies and procedures and regulations are not developed in a timely manner, errors in implementing the bill are likelier to occur, resulting in a higher probability of litigation.

5. Award of good time, on a monthly basis after the fact, would require an individual entry on the time accounting sheet in each prisoner record at the Project every month, followed by an individual computer entry into the OBSCIS system revising each prisoner's release date each month. It is estimated that the time accounting function for 100-150 prisoners will require approximately two full days of staff time, which will have to be absorbed by existing staff at Pt. MacKenzie. If staffing or training in time accounting is inadequate, the following issues will become further complicated:

Good time earned during the final month would not be awarded until after the prisoner is released, so it would only benefit a prisoner whose probation or parole is revoked, who would receive a credit towards the next period of incarceration. Equal protection issues may be raised by prisoners who satisfactorily complete 30 days or more in the program, but whose time straddles two calendar months, and who do not receive the special good time credit awarded to prisoners who complete a calendar month. Since the release dates of Pt. MacKenzie participants will change every month, notification of victims, police, furlough review, and other pre-release requirements which hinge on the final release date will become more complex.

6. A list of prisoners serving time at the Project on April 6, 1994 (Attachment A) reveals 52 prisoners with a total of 428 full calendar months remaining between July 1, 1994 and their release dates. If each prisoner earned the full "special good time" credit of three days per full month, a total of 1,248 inmate days (or 3.5 inmate-years) would be saved between July 1, 1994 and May 1998 when the latest release date for this population occurs, or slightly less than 1 inmate-year (1 bed) per year. Since the population at Pt. MacKenzie is expected to double this year, it is assumed that a savings of 2 inmate-years or 2 beds would result.

7. It is assumed that some prisoners would eventually move from Pt. MacKenzie to a CRC on furlough status, so that not all of the remaining sentence length would result in the full reduction of special good time. However, because untreated sex offenders are ineligible for prerelease furloughs at this time, and comprise over a third of the Pt. MacKenzie population, a substantial number would be likely to remain at the Project for the duration of sentence, earning the maximum award of special good time. (However, a prisoner who fails to participate in a court-ordered rehabilitation program which was made available to the prisoner is subject to losing all earned good time through a parole revocation hearing, under AS 33.16.220. The number of prisoners at Pt. MacKenzie to whom this provision applies cannot be determined without individual file reviews.)

Attachment A
 (page 4 of 4)

IDENTIFICATION	OFFENSE	RELEASE-DATE	MONTHS
06100	CEFCIS MS-OFFENSE		
06200	00000459 PROBATION VIOLATION	19950417	9 mo.
06300	00000621 PAROLE VIOLATION	19960226	13 mo.
06400	00003966 PAROLE VIOLATION	19970425	33
06500	00003679 DMVI - ALCOHOL	00000000	0
06600	00003616 DMVI - ALCOHOL	19940704	0
06700	00007059 CRIMINAL MISCHIEF - 4TH	19940914	2
06800	00012159 BURGLARY - 1ST	19970922	33
06900	00012201 DMVI - ALCOHOL	19941017	3
07000	00026580 ROBBERY - 2ND	19960911	26
07100	00022740 SEX ABUSE MINOR-3RD	19940909	1
07200	00030681 SEX ABUSE MINOR-2ND	19940627	0
07300	00030239 DMVI - ALCOHOL	19950325	8
07400	00030374 SEX ABUSE MINOR-2ND	19950514	10
07500	00040873 SEXUAL ASSAULT - 2ND	19940717	0
07600	00055677 UNTRD SUBSTANCES- 3RD		0
07700	00061983 PROBATION VIOLATION	19941004	3
07800	00063455 PAROLE VIOLATION	19950814	1
07900	00065799 SEX ABUSE MINOR-2ND	19950622	11
08000	00072582 DMVI - ALCOHOL	19940714	0
08100	00074716 ATTEMPT TO COMMIT FELONY	19940904	2
08200	00081726 KIDNAPPING	19950126	18
08300	00082479 SEX ABUSE MINOR-2ND	19950319	9
08400	00097317 ASSAULT - 4TH	19941001	3
08500	00112061 SEX ABUSE MINOR-3RD	19941027	5
08600	00121489 PROBATION VIOLATION	00000000	0
08700	00134574 PROBATION VIOLATION	19950407	9
08800	00140000 PAROLE VIOLATION	19940920	2
08900	00142512 PROBATION VIOLATION	19960726	24
09000	00146287 SEX ABUSE MINOR-1ST	19960625	23
09100	00170652 SEXUAL ASSAULT - 1ST	19940731	0
09200	00176691 PROBATION VIOLATION	19931207	0
09300	00184989 CRIMINAL MISCHIEF - 3RD	19940526	0
09400	00187002 SEX ABUSE MINOR-1ST	19961215	29
09500	00206736 TRESPASS - 1ST	19940822	1
09600	00227016 SEX ABUSE MINOR-1ST	19960113	18
09700	00227562 SEXUAL ASSAULT - 1ST	19961202	29
09800	00232144 PROBATION VIOLATION	19940710	0
09900	00232411 SEXUAL ASSAULT - 2ND	19941208	5
010000	00257505 PAROLE VIOLATION	19941228	5
010100	00258715 SEX ABUSE MINOR-1ST	19980516	46
010200	00252955 ROBBERY - 1ST	19940925	1
010300	00253226 SEX ABUSE MINOR-2ND	19940924	2
010400	00267396 PROBATION VIOLATION	19950320	7
010500	00271776 ASSAULT - 3RD	19940821	1
010600	00271653 DMVI - ALCOHOL	19940627	0
010700	00281037 SEX ABUSE MINOR-2ND	19940522	0
010800	00283949 SEX ABUSE MINOR-2ND	19940922	2
010900	00287916 PROBATION VIOLATION	19940711	0
011000	00293751 COERCION	19941119	4
011100	00294249 ASSAULT - 3RD	19950414	9
011200	00294573 SEX ABUSE MINOR-2ND	19950521	10
011300	00295243 ATTEMPT TO COMMIT FELONY	19940809	1
011400	00304143 BURGLARY - 2ND	19950112	6
011500	4/06/94 16.50.06 EASYTRIEVE PLUS - 6.00		

428 months

HB

155

HFIN

FILE

8-LS0451V
Lauterbach
4/6/93

adopted

CS FOR HOUSE BILL NO. 155()

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES G.DAVIS, Brice, Olberg, Nordlund, Hudson, Sitton, B.Davis

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to audits of health facilities."**

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

3 *** Section 1. AS 47.07.070 is amended by adding a new subsection to read:**

4 (g) Unless a facility agrees to the use of other adjustments or rate revisions,
5 the department, in setting a prospective rate of payment under this section, may use
6 only final audit adjustments under AS 47.07.084 - 47.07.088.

7 *** Sec. 2. 47.07.074 is amended by adding a new subsection to read:**

8 (b) Under procedures set out in AS 47.07.082 - 47.07.096, the department may
9 audit the financial records of a health facility and other documents relating to the
10 calculation of medical assistance payment rates to

11 (1) determine the accuracy of information used to set a prospective rate
12 of payment to the facility; and

13 (2) ensure compliance by the facility and by the department with this
14 chapter and with regulations adopted under this chapter.

1 * Sec. 3. AS 47.07 is amended by adding new sections to read:

2 Sec. 47.07.082. PRELIMINARY REVIEW PROCEDURES. (a) Within 105
3 days after the end of the health facility's fiscal year or within whatever additional time
4 is granted by the department at the request of the facility, a health facility shall submit
5 to the department its year-end report, consisting of reasonable information specified
6 by the department in its regulations.

7 (b) Within 30 days after the department receives a year-end report under (a)
8 of this section, the department may conduct a preliminary review of the facility's
9 report and determine whether a field audit or a desk audit will be conducted of the
10 facility.

11 Sec. 47.07.084. AUDIT GUIDELINES. If the department determines under
12 AS 47.07.082(b) that an audit will be conducted, it shall make a good faith effort to
13 adhere to the following guidelines:

14 (1) within 30 days after the department's receipt of the facility's year-
15 end report under AS 47.07.082, the department shall notify the facility in writing that
16 it intends to conduct a desk audit or a field audit and shall submit to the facility in
17 writing any questions the department has regarding the year-end report;

18 (2) the department shall consider responses to the questions submitted
19 under (1) of this section if they are given to the department by the facility within 30
20 days after receiving the department's questions under (1) of this section;

21 (3) the department shall give the facility written notice of the date the
22 audit will begin; the department may not begin a field audit until at least 10 days after
23 the facility received the notice, except with the consent of the facility;

24 (4) the department shall complete the desk audit or field audit within
25 90 days after the department received the facility's year-end report under
26 AS 47.07.082;

27 (5) before beginning a field audit, the lead auditor shall conduct an
28 entrance conference with a representative of the facility and shall fully inform the
29 facility of the audit process and the areas of focus;

30 (6) promptly upon completion of a field audit, the lead auditor shall
31 conduct an exit conference; at the exit conference, the department shall provide the

1 facility with a list in writing of all proposed audit adjustments and a list in writing of
2 any outstanding issues; upon request by the facility, the department shall provide to
3 the facility copies of the audit work papers;

4 (7) within 20 days after the exit conference under (6) of this section,
5 the facility may submit additional information to the department to be considered in
6 connection with the audit;

7 (8) within 30 days after completion of the desk audit or field audit, the
8 department shall issue its preliminary audit report;

9 (9) within 30 days after it receives the preliminary audit report under
10 (8) of this section, a facility may submit a written response to the department; if the
11 facility fails to respond, the department may propose use of the preliminary
12 adjustments in the final audit report;

13 (10) within 30 days after the deadline for submission of the facility's
14 response to the preliminary audit report under (9) of this section, the department shall
15 issue a final audit report.

16 Sec. 47.07.086. TIME DEADLINE FOR FINAL AUDIT REPORTS. The
17 department shall complete a final audit report and serve it on the facility so that it is
18 received by the facility within 200 days after the date the facility's year-end report was
19 due under AS 47.07.082 or the date the department received the year-end report,
20 whichever was later.

21 Sec. 47.07.087. REQUEST FOR HEARING. Within 30 days after it receives
22 a final field audit report under AS 47.07.084(10), a facility that is dissatisfied with the
23 report may request a formal administrative hearing.

24 Sec. 47.07.088. CONTENTS OF AUDIT REPORTS. Preliminary and final
25 audit reports for desk audits and field audits must each include

26 (1) criteria that form the basis of the audit, including the statutory,
27 regulatory, and contractual bases of the criteria;

28 (2) findings describing noncompliance by the facility or the department
29 with applicable statutes, regulations, or contractual requirements and calculation or
30 reporting errors;

31 (3) specific audit adjustments based on the findings, except that the

1 department may waive adjustments that are not material;

2 (4) other adjustments as determined by the commission;

3 (5) a revised cost report if the audit report identifies changes that
4 should be made in the cost report; and

5 (6) attachments, including all written responses and comments
6 submitted by the facility.

7 Sec. 47.07.090. PERFORMANCE OF AUDITS. The audit unit within the
8 department shall perform the audit functions described in AS 47.07.082 - 47.07.088.
9 At the request of and under the direction of the audit unit, audit work under
10 AS 47.07.082 - 47.07.088 may also be performed by a contractor or by the
11 commission, but all audit work shall be performed in compliance with AS 47.07.082 -
12 47.07.088.

13 Sec. 47.07.092. FACILITY'S REQUEST FOR AUDIT ADJUSTMENTS. (a)
14 A facility may submit to the department a written request that the department include
15 specified audit adjustments in the audit results under AS 47.07.084 - 47.07.088. The
16 facility may submit a request under this section with its year-end report under
17 AS 47.07.082 or at any time up to 120 days after either the date the year-end report
18 is due or the date the department received the year-end report, whichever was later.

19 (b) The department shall review a request made under (a) of this section and
20 consider whether to include the adjustments requested under (a) of this section in the
21 final audit report under AS 47.07.084 - 47.07.088.

22 (c) If the department fails to comply with the 200-day time limit in
23 AS 47.07.086, the facility's request for specified adjustments under this section is
24 considered denied on the 200th day, and within 30 days after the 200th day, the
25 facility may request a formal administrative hearing on the denial of the request.

26 (d) If the department includes the requested adjustments in the final audit
27 report under AS 47.07.084 - 47.07.088 or if it is determined by a final unappealed
28 decision in an administrative or judicial proceeding that the requested adjustments
29 should have been included in the final audit report, then any resulting rate revision
30 shall be applied to that rate year and to any affected subsequent fiscal period of the
31 facility.

1 Sec. 47.07.094. AUTHORIZED USE OF AUDIT RESULTS. (a) If the
2 department has complied with the 200-day time limit in AS 47.07.086, the department
3 may use the audit results to calculate medical assistance payment rates for the rate
4 year.

5 (b) If the department has failed to comply with the 200-day time limit in
6 AS 47.07.086, the department may use the audit results in the calculation of medical
7 assistance payment rates only for a fiscal period that commences more than 60 days
8 after the facility receives the final audit report.

9 Sec. 47.07.096. IMPLEMENTATION OF AUDIT AND RATE DECISIONS.

10 (a) Unless otherwise ordered by a court, the department shall promptly implement the
11 results of a final, unappealed decision issued in an administrative or judicial
12 proceeding in which a facility has sought review of an audit result or a rate.

13 (b) Within 60 days after a decision described in (a) of this section is issued,
14 the department shall revise the challenged audit result or rate in accordance with the
15 decision and shall also revise affected rates for subsequent periods.

16 (c) Within the same 60-day period described in (b) of this section, the
17 department shall calculate the lump-sum adjustment necessary to implement the revised
18 audit result or revised rates and shall give the facility written notice of the revised
19 audit result, the revised rates, and the related lump-sum adjustment.

20 (d) A facility may recoup amounts owed by the department as the result of an
21 adjustment under (c) of this section. The amounts shall be repaid, at the option of the
22 facility, by an increase in the next prospective rate of payment or by 12 equal monthly
23 payments starting with the first month of the facility's next fiscal year.

24 (e) A facility that is dissatisfied with the rate revision or lump-sum adjustment
25 calculated by the department under (c) of this section may request a formal
26 administrative hearing within 30 days after the health facility receives written notice
27 of the rate revision or lump-sum adjustment. A rate revision or adjustment challenged
28 under this subsection may not be implemented until a final, unappealed administrative
29 or judicial decision has been issued.

30 * Sec. 4. AS 47.07.180 is amended by adding a new subsection to read:

31 (e) The commission shall include in its advice under (a) of this section a

1 reimbursement rate that incorporates the final audit adjustments under AS 47.07.084 -
2 47.07.088 and other adjustments and rate revisions, consistent with this chapter, that
3 have been agreed to by the department and the facility.

4 * Sec. 5. AS 47.07.900 is amended by adding new paragraphs to read:

5 (18) "desk audit" means an audit conducted without being at the facility
6 being audited;

7 (19) "facility" means a health facility;

8 (20) "field audit" means an audit conducted at the facility being
9 audited;

10 (21) "rate year" means the second fiscal year of a health facility that
11 begins after the end of the fiscal year that is the subject of an audit under
12 AS 47.07.082 - 47.07.096.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 155

Revision Date: 02/23/93 Dept. Affected: Health and Social Services
 Title: An Act Relating to Audits of Health BRU: Administrative Services
Facilities Component: Audit
 Sponsor: Rep. G. Davis,...
 Requestor: _____ COMPONENT SERIAL NO. 318

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	381.0	400.0	420.0	441.0	463.0	486.0
TRAVEL	21.0	22.0	23.0	24.0	26.0	27.0
CONTRACTUAL	8.4	8.8	9.3	9.7	10.2	10.7
SUPPLIES	12.0	12.6	13.2	13.9	14.6	15.3
EQUIPMENT	18.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	440.4	443.4	465.5	488.6	513.8	539.0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE FUND SOURCE						
----------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	220.2	221.7	232.7	244.3	256.9	269.5
1003 GF Match	220.2	221.7	232.7	244.3	256.9	269.5
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	440.4	443.4	465.5	488.6	513.8	539.0

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: _____

ANALYSIS: (Attach a separate page if necessary)

- (1) Additional staff: 5 Auditors and a Data Processing Technician.
- (2) Inflate personnel service cost at 5% annually.

Prepared by: Michael R. Sanders, CPA
 Division: Audit

Phone: 465-3120
 Date: 02/23/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

Position Title Internal Auditor III			No. of Positions 5	Range/Step 19A	Bargaining Unit GG
Time Status Full	Staff Months 12.0		Location Juneau		Election District
TYPE of EXPENDITURE			AMOUNT		
Salary			45.0		
Benefits			17.4		
Premium Pay					
Other					
Total Personal Services			62.4		
Travel			4.0		
Contractual			1.4		
Commodities			2.0		
Equipment					
Other					
Total Cost			69.8		
FUNDING SOURCE for TOTAL COST					
1002	Federal Receipts		35.6		
1003	GF Match		35.6		
1004	General Fund				
1005	GF/Program Receipts				
1006	GF/Mental Health Trust				
1007	I/A Receipts				
1061	CIP Receipts				
Other					
<p>Justification</p> <p>HB 155 imposes strict scope and time limits on Medicaid Provider Audits. The addition of these staff members will help offset the restrictions. The Medicaid Audit must be done to standards for Government Audits as established by Comptroller of the United States. Medicaid Audits are a Federal Mandated program.</p>					

**REQUEST for
NEW POSITION**

AGENCY: Health and Social Services
 BRU: Administrative Services
 COMPONENT: Audit 0318

FY94

Page 2 of 2

Revised Date:

Position Title Data Processing Technician III		No. of Positions 1	Range/Step 16A	Bargaining Unit GG
Time Status Full	Staff Mouths 12.0	Location Juneau		Election District
TYPE of EXPENDITURE		AMOUNT		
Salary		36.0		
Benefits		15.0		
Premium Pay				
Other				
Total Personal Services		51.0		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost				
FUNDING SOURCE for TOTAL COST				
1002	Federal Receipts	25.5		
1003	GF Match	25.5		
1004	General Fund			
1005	GF/Program Receipts			
1006	GF/Mental Health Trust			
1007	I/A Receipts			
1061	CIP Receipts			
Other				
Justification HB 155 imposes strict scope and time limits on Medicaid Provider audits. The addition of these staff members will help offset the restrictions. The Medicaid Audit must be done to standards for Government audits as established by the Comptroller of the United States. Medicaid Audits are a Federal Mandated program.				

**REQUEST for
NEW POSITION**

AGENCY: Health and Social Services
 BRU: Administrative Services
 COMPONENT: Audit 0318

Page 1 of 2
 Revised Date:

FY94

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 155

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act Relating to Audits of Health BRU: Medical Assistance
Facilities ... Component: Medicaid Facilities
 Sponsor: Rep. G. Davis, ...
 Requestor: _____ COMPONENT SERIAL NO. 230

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0
MISCELLANEOUS						
TOTAL OPERATING	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

- (1) Additional Medical Assistance payments to facilities because of a reduction in audit control effectiveness.
- (2) Additional costs are inflated by 10% annually due to cost containment failure.
- (3) Medical Assistance costs are 100% General Fund because Health Care Financing Administration (Title XIX funding agency) will not participate in overpayments.

Prepared by: Michael R. Sanders, CPA
 Division: Audit Unit

Phone: 465-3120
 Date: 02/22/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: 2-23-94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 155

Revision Date: 02/23/93 Dept. Affected: Health and Social Services
 Title: An Act Relating to Audits of Health BRU: Administrative Services
Facilities Component: Audit
 Sponsor: Rep. G. Davis,...
 Requestor: _____ COMPONENT SERIAL NO. 318

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	381.0	400.0	420.0	441.0	463.0	486.0
TRAVEL	21.0	22.0	23.0	24.0	26.0	27.0
CONTRACTUAL	8.4	8.8	9.3	9.7	10.2	10.7
SUPPLIES	12.0	12.6	13.2	13.9	14.6	15.3
EQUIPMENT	18.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	440.4	443.4	465.5	488.6	513.8	539.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	220.2	221.7	232.7	244.3	256.9	269.5
1003 GF Match	220.2	221.7	232.7	244.3	256.9	269.5
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	440.4	443.4	465.5	488.6	513.8	539.0

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: _____

ANALYSIS: (Attach a separate page if necessary)

- (1) Additional staff: 5 Auditors and a Data Processing Technician.
- (2) Inflate personnel service cost at 5% annually.

Prepared by: Michael R. Sanders, CPA
 Division: Audit

Phone: 465-3120
 Date: 02/23/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

Position Title Internal Auditor III			No. of Positions 5	Range/Step 19A	Bargaining Unit GG
Time Status Full	Staff Months 12.0		Location Juneau		Election District
TYPE of EXPENDITURE			AMOUNT		
Salary			45.0		
Benefits			17.4		
Premium Pay					
Other					
Total Personal Services			62.4		
Travel			4.0		
Contractual			1.4		
Commodities			2.0		
Equipment					
Other					
Total Cost			69.8		
FUNDING SOURCE for TOTAL COST					
1002	Federal Receipts		35.6		
1003	GF Match		35.6		
1004	General Fund				
1005	GF/Program Receipts				
1006	GF/Mental Health Trust				
1007	I/A Receipts				
1061	CIP Receipts				
Other					
<p>Justification</p> <p>HB 155 imposes strict scope and time limits on Medicaid Provider Audits. The addition of these staff members will help offset the restrictions. The Medicaid Audit must be done to standards for Government Audits as established by Comptroller of the United States. Medicaid Audits are a Federal Mandated program.</p>					

**REQUEST for
NEW POSITION**

AGENCY: Health and Social Services
 BRU: Administrative Services
 COMPONENT: Audit 0318

Page 2 of 2
 Revised Date:

FY94

Position Title Data Processing Technician III			No. of Positions 1	Range/Step 16A	Bargaining Unit GG
Time Status Full	Staff Months 12.0		Location Juneau		Election District
TYPE of EXPENDITURE		AMOUNT	Justification HB 155 imposes strict scope and time limits on Medicaid Provider audits. The addition of these staff members will help offset the restrictions. The Medicaid Audit must be done to standards for Government audits as established by the Comptroller of the United States. Medicaid Audits are a Federal Mandated program.		
Salary		36.0			
Benefits		15.0			
Premium Pay					
Other					
Total Personal Services		51.0			
Travel					
Contractual					
Commodities					
Equipment					
Other					
Total Cost					
FUNDING SOURCE for TOTAL COST					
1002	Federal Receipts	25.5			
1003	GF Match	25.5			
1004	General Fund				
1005	GF/Program Receipts				
1006	GF/Mental Health Trust				
1007	I/A Receipts				
1061	CIP Receipts				
Other					

**REQUEST for
NEW POSITION**

AGENCY: Health and Social Services
BRU: Administrative Services
COMPONENT: Audit 0318

Page 1 of 2
Revised Date:

FY94

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 155

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act Relating to Audits of Health BRU: Medical Assistance
Facilities ... Component: Medicaid Facilities
 Sponsor: Rep. G. Davis, ...
 Requestor: _____ COMPONENT SERIAL NO. 230

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0
MISCELLANEOUS						
TOTAL OPERATING	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

- (1) Additional Medical Assistance payments to facilities because of a reduction in audit control effectiveness.
- (2) Additional costs are inflated by 10% annually due to cost containment failure.
- (3) Medical Assistance costs are 100% General Fund because Health Care Financing Administration (Title XIX funding agency) will not participate in overpayments.

Prepared by: Michael R. Sanders, CPA
 Division: Audit Unit

Phone: 465-3120
 Date: 02/22/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: 2-23-94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 155 (Fin)

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act Relating to Audits of Health BRU: Medical Assistance
Facilities... Component: Medicaid Facilities
 Sponsor: Rep. G. Davis,
 Requestor: _____ COMPONENT SERIAL NO. 230

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	3,000.0	3,300.0	3,630.0	3,993.0	4,392.3	4,831.5
MISCELLANEOUS						
TOTAL OPERATING	3,000.0	3,300.0	3,630.0	3,993.0	4,392.3	4,831.5

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	3,000.0	3,300.0	3,630.0	3,993.0	4,392.3	4,831.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	3,000.0	3,300.0	3,630.0	3,993.0	4,392.3	4,831.5

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Michael R. Sanders, CPA
 Division: Audit Unit

Phone: 465-3120
 Date: 04/14/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: 4-16-93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

ANALYSIS (cont.):

The federal government is currently in the process of reviewing the Department's audits for fiscal year 1989. The result of this review is that approximately three percent of 1989 medicaid costs that were included in facility rates for that year should have been disallowed. Based on this experience, and our belief that the audits proposed under CSHB 155 (Fin) will be comparable in scope to the FY 89 audits, the Department projects additional cost to the State to be in the range between 2.7 percent and 3.2 percent of annual medicaid facility expenditure.

Applying this range of percentage increase to medicaid cost results in medicaid facility increases of between \$3,086,000 and \$4,229,000 in FY 94.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 155 (Fin)

Revision Date: 04/14/93 Dept. Affected: Health and Social Services
 Title: An Act Relating to Audits of Health Facilities BRU: Administrative Services
 Component: Audit
 Sponsor: Rep. G. Davis, ...
 Requestor: _____ COMPONENT SERIAL NO. 318

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	266.4	279.7	293.6	308.2	323.6	339.7
TRAVEL	16.8	17.6	18.4	19.3	20.2	21.2
CONTRACTUAL	6.4	6.7	7.0	7.3	7.3	7.6
SUPPLIES	9.6	10.0	10.5	11.0	11.5	12.0
EQUIPMENT	14.4					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	313.6	314.0	329.5	345.8	362.6	380.5

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	156.8	157.0	164.7	172.9	181.3	190.2
1003 GF Match	156.8	157.0	164.8	172.9	181.3	190.3
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	313.6	314.0	329.5	345.8	362.6	380.5

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: _____

ANALYSIS: (Attach a separate page if necessary)

- (1) Additional staff: 4 Auditors
- (2) Inflate personnel service cost at 5% annually.

Prepared by: Michael R. Sanders, CPA
 Division: Audit

Phone: 465-3120
 Date: 04/14/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: 4-16-93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

Position Title Internal Auditor III		No. of Positions 4	Range/Step 19A	Bargaining Unit GG
Time Status Full	Staff Months 12.0	Location Juneau		Election District
TYPE of EXPENDITURE		AMOUNT	Justification CSHB 155 (Fin) imposes strict scope and time limits on Medicaid Provider Audits. The addition of these staff members will help offset the restrictions. The Medicaid Audit must be done to standards for Government Audits as established by Comptroller of the United States. Medicaid Audits are a Federal Mandated program.	
Salary		45.0		
Benefits		17.4		
Premium Pay				
Other				
Total Personal Services		62.4		
Travel		4.0		
Contractual		1.4		
Commodities		2.0		
Equipmen'				
Other				
Total Cost		69.8		
FUNDING SOURCE for TOTAL COST		ERROR		
1002	Federal Receipts	35.6		
1003	GF Match	35.6		
1004	General Fund			
1005	GF/Program Receipts			
1006	GF/Mental Health Trust			
1007	I/A Receipts			
1061	CIP Receipts			
Other				

**REQUEST for
NEW POSITION**

AGENCY: Health and Social Services

BRU: Administrative Services

COMPONENT: Audit 0318

FY94

Page 2 of 2

Revised Date: 04/14/93

Back-up

Alaska State Legislature

Interim:
P.O. Box 2187
Soldotna, AK 99669



Session:
State Capitol
Juneau, AK 99801
(907) 465-2693

Representative Gary L. Davis

SPONSOR STATEMENT

HOUSE BILL 155

"An Act relating to audits of health facilities."

Hospitals and nursing homes throughout the State receive a large portion of their revenues from the State/Federal Medicaid program.

Our statutes require an Audit be performed by the Department of Health & Social Services to determine the rates which can be charged for various medical services.

There are 27 medical facilities in Alaska that the department is obligated to perform annual audits on. When these audits are completed (closed-out) the facility and the department have agreed to what rates can be properly charged for the next fiscal year.

This proposed legislation will add elements of clarity, consistency, and timeliness that are currently lacking in the medicaid audit process. The final rate setting authority belongs to the Commissioner of the Department of Health & Social Services while the Medicaid Rate Advisory Commission (MRAC) acts as an advisory board. When the MRAC was established, there was a process for hospitals and nursing homes to appeal rates set by the MRAC staff. That appeal process has broken down. The breakdown of the appeal process is largely due to the lack of a well-defined audit process. Over forty Medicaid rate appeals are currently outstanding. There are other circumstances, such as staff turnover, that have stifled the process also, but the bill addresses what we perceive to be the crux of the problem.

SPONSOR STATEMENT

This bill is designed to establish a schedule whereby these audits are performed and completed in an agreed upon timeframe. The need for this bill has come about due to unacceptable delays by the department in completing these required audits. These delays have caused great concern by the medical facilities because they often face situations where their costs are increased -- and without a current completed audit their rates are in question.

POSITION PAPER
COMMITTEE SUBSTITUTE FOR HOUSE BILL 155 (HES)

Purpose

CSHB 155 proposes changes to State law regarding the scope and timing of and procedures to be used during audits of health facilities which receive medical assistance payments.

Background

The Department of Health and Social Services, through the Medicaid program, pays Alaska hospitals and nursing homes approximately \$114 million to provide health care to medicaid eligible Alaskans.

The Alaska Supreme Court ruled in Cordova v. State of Alaska (1990) that the State did not have the statutory authority to collect audit rate adjustment overpayments paid to Alaska health facilities.

This decision was based on the Alaska Supreme Court's interpretation of the Statute governing methodology used by the State to establish medicaid payment rates for facilities. The Court ruled that the Statute requiring prospective methodology precluded recoupment of overpayment. A prospective methodology means that a basic rate is applicable during a year and that after the end of that year the compensation to the facility cannot be changed as a result of audit information. Consequently, the Department has been forced to shift its audit focus to assuring the accuracy of prospective payment amounts and, therefore, prevent overpayment from occurring. This occurs by basing payments on audited financial information.

The department has not been current with it's facility audits since the beginning of the prospective payment system for a number of reasons including, complexity of the system, conservative audit budgets, and delays in the beginning. During the last two years the department has made significant progress in catching up with the backlog of provider audits and expects that effort to continue. We expect to be current in the next 12 months. (Appendix E)

The Division of Legislative Audit included a recommendation (appendix A) in a special audit 06-4428-92, that the department seek statutory revision of Title 47 in order to provide authority for recoupment from health care facilities based on audit results. The department would support legislation which; 1) streamlined the audit process, assisting with the catchup and keep current effort; 2) allowed

recoupment from health care facilities, and; 3) allow the use of audit data in rate setting. CSHB-155 does none of these. In fact CSHB-155 makes the audit process much more cumbersome and specifically disallows recovery of overpayment.

Discussion

Alaska, through the Medicaid Rate Advisory Commission (MRAC), establishes the rates that the State will pay to hospitals, rural health clinics, home health agencies, surgical centers, and nursing homes, on behalf of medicaid clients. This is a prospective payment rate; it is set prior to the beginning of the facilities budget year. The rate is based on the facilities actual expenditure two years previously. Those expenditures are then inflated forward to the present and thus becomes the basis for the rate. The prospective payment rate is only as accurate as the expenditure information upon which it is based. If the expenditure information from two years previously contains expenditures which are not allowed, the prospective payment rate that is set will be overstated [and] the State will have no way to recoup these overpayments. If the information going into the rate setting system is flawed, the cost containment incentives built into the system fail to work properly.

The audit function is designed to assure that the costs that are included in the base of the rate are an accurate reflection of the facilities costs by auditing for compliance to medical assistance Statutes and Regulations. For example, the payment rate for facility year 1993 will be set on January 1, 1993, but will be based upon costs incurred during facility year 1991. Before the 1993 rate can be accurately set, the audit of facility year 1991 should be completed. Examples of the adjustments proposed in 1992 are contained in appendix B.

Because of the Cordova decision, any costs which are not allowable and are not adjusted through the audit process before the facility budget year is over, cannot be recouped later. Consequently, any audit adjustments which are not included in the calculation of the prospective rate are excess costs which the State will continue to pay. During FY 94, the Department expects to pay hospitals and nursing homes approximately 114 million in medicaid payments. It is critical that the Department has an audit function that rigorously examines the costs which are the basis for these payments.

Analysis

A brief summary of the major problems with the bill is as follows:

- * AS 47.07.087 indicates that audits must be done within 165 days of receipt of year end report, regardless of the delays that may occur because of untimely responses from facilities. A facility can avoid audits simply by delaying responses.
- * Nothing in the bill talks about the quality of the response from the facility. The facility has a time line for the original submission , however, it only requires a response and does not refer to the completeness or quality of response, and excludes responses to inquiries. Attached is appendix C which documents the original due date of provider submitted information and the date the reports were ultimately available to the department. Appendix D illustrates the extensions in time to respond to audit inquiry requested by facilities being audited during 1992.
- * The bill is so detailed that virtually any audit will likely get hung up on legal technicality. Much of the detail may be more appropriate in Regulation if the detail is necessary at all.
- * The actual time available to do audits is very limited (field audits must be finished within 20 days for example).
- * The bill requires the Medical Rate Advisory Commission (MRAC) to calculate rates twice. The purpose for double calculation is not clear from reading AS 47.07.180.
- * The bill severely limits the scope of field audits by requiring the department to notify the facility of the areas of focus. This language does not allow auditors to pursue legitimate leads that become apparent as the audit proceeds. Scope limitations only serve to reward the facilities by building improperly reported costs into the payment rate.
- * Millions of Alaska Medicaid dollars are spent annually paying for out of state home office costs. Because of the short time limitation and the out of state location of these home offices the department will have no opportunity to verify these costs.
- * Section 1 states that the MRAC staff can do no rate analysis except what is noted as an audit exception or what is agreed to by the facility. This severely limits the scope of the rate setting and budget analysis. Annual budgets which are integral to rate setting are submitted subsequent to the 165 day cutoff for making

audit adjustment. The department would therefore be accepting the budget of a facility without the ability to analyze those budgets.

- * AS 47.07.092 contains language which shifts the burden of correct reporting from the facilities to the departments. If the facility requests an audit adjustment then the department has to include the adjustment or justify its exclusion. This provision of CSHB 155 would allow a facility to submit new information, or even a new cost report very late in the process, leaving the department no opportunity to verify the information. This provision would likely make void much of the audit effort accomplished prior to the facility submitting adjustments.

The department has many other concerns with this proposed legislation, however attempting to document them all may imply CSHB 155 can easily become acceptable. The Department does not believe this to be the case.

Position

CSHB 155 virtually eliminates the departments ability to audit facilities which expend over 114 million in medicaid dollars. The Bill establishes audit rules and deadlines that will prove to be impossible to meet. Even with a significant increase in staff, the department does not believe that it could maintain an audit function which would comply with Federal medicaid requirements. The department has pointed out several major problems with the legislation. This list is not exhaustive and is meant to be illustrative of the legislations' imbalance toward facilities. If this bill were to pass, the department does not believe that it could guarantee the financial integrity of the medicaid facilities budget. The department could not in good conscience make any promises to the legislature that facility medicaid costs could be contained in any way. We strongly oppose the legislation.

Recommended by: Michael R. Sanders
Michael R. Sanders, CPA
Audit Unit Manager

Date: _____

Approved by: Theodore A. Mala
Theodore A. Mala, MD, MPH
Commissioner

Date: 3/22/93

APPENDIX A

and should include in the review process the verification of cost data upon which the facility is reimbursed.

Recommendation No. 3

DHSS should continue to seek statutory revision of Title 47 in order to provide authority for recoupment from health care facilities based on audit results.

Alaska Statute 47.07.074 provides, as a condition of obtaining payment, that a health facility will allow inspection of their records. The Alaska Supreme Court (March 30, 1990) in *City of Cordova v. Medicaid Rate Commission* found that AS 47.07.074 did not provide authority for recoupment from a facility based upon audit results. The Court found that the text of the statute did not state or imply that the amount of payment to the facility would be affected by any audit. The Court further found that no right of recapture was established by DHSS in their agreements with the facilities.

Federal regulation 42 CFR 433.300 directs that quarterly federal payments to the states under Title XIX - Medical Assistance Payments are to be reduced or increased to make adjustment for prior overpayments or underpayments which have been made. A state has 60 days from discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the federal Medicaid payment to the state is made. Adjustment in the payment to the state occurs whether or not recovery is made.

It is essential that the State be able to recoup from facilities payments determined to be inappropriate based upon the result of audits. The lack of recoupment and the federal requirements concerning overpayment of facilities increases the cost of the Medicaid program to the State. DHSS is currently not able to obtain reimbursement from facilities of amounts over paid them, but is required to reimburse the federal government for the amount of federal participation in that overpayment.

In 1991, the department introduced Senate Bill 288 relating to the use of audit and inspection results in recapturing overpayments and reimbursing underpayments to health facilities. However, this bill was not passed by the Legislature. We recommend that the department continue its efforts and seek such a statutory revision in the next legislative session.

In addition, we suggest the department update their agreements with facilities to include provision for the recapture of overpayments identified by the department.

APPENDIX B

EXAMPLES OF 1992 AUDIT ADJUSTMENTS

1. A long term care facility included Bingo and Sing Along activities as Ancillary Expenses. Ancillary expenses are to be prescribed by a physician and are reimbursed on an actual cost basis. The result was that the Medicaid program would pay approximately \$50.00 for each patient participating in Bingo or Sing Along. The adjustment records these expenses as reimbursable routine expenses.
2. A branch of a national long term care facility included \$35,000 in interest paid to the home branch. The adjustment disallows the interest as a non arms length transaction.
3. A long term care facility charges \$2.55 per day for Medical Supplies for non Medicaid patients and \$7.50 per day for Medical Supplies for Medicaid patients. The adjustment makes the charges equal.
4. A long term care facility reported more interest revenue offset than is required. Medicaid requires that interest revenue be offset only to the extent of interest expense.
5. A hospital failed to report its' full depreciation amount. The adjustment added the reimburseable cost.
6. A long term care facility's cost report contained Form A-8 adjustments recorded backwards. The correction would increase the facility's reimbursement rate.
7. A hospital includes the cost of clinics in its cost report. The clinics are reimbursed differently under the system, similar to the method for reimbursing non hospital clinics. The adjustment removed the clinics from the hospital cost report.
8. A hospital included lobbying fees in the cost report. Lobbying fees are not reimbursable Medicaid expenses and were removed from the cost report.
9. Several long term care facilities included items like combs, shampoo, and bath powder as Medical Supplies an ancillary. Medicaid considers these items to be routine.
10. A branch of a national hospital chain continues to respond to inquiries by saying the records are maintained at the national location and requests for the information are rarely forthcoming.

Appendix B
Page 2

11. Several long term care facilities included costs salary and other cost in ancillary which are always considered routine by Medicare reimbursement standards. ANCillary are reimbursed at a rate to reflect 100% of base period costs. The audit adjustment reclassified the costs as routine.
12. Approximately two thirds of all hospital and nursing homes pay for services from an out of state home office. These costs are reported on home office cost reports. Medicare intermediaries audit the home office cost, however the result of those audits are not available to the department until well after the deadlines for completion of the departments audits.

APPENDIX C

UNTIMELY REQUESTS

<u>Facility</u>	<u>1st Extension</u>	<u>2nd Extension</u>
Cent. Peninsula	11/3/92 (30 days)	
Heritage Place	11/3/92 (30 days)	
Humana Hosp.-Alaska		
Ketchikan General Hosp.	2/28/92 (30 days)	
OLOC	10/15/92 (30 days)	2/1/93 (105 days)
Providence Hosp.	11/9/92 (30 days)	
Sitka Community Hosp.	3/5/92 (no response letter sent)	
South Peninsula	9/4/92 (30 days)	
Wrangell	7/18/92 (30 days)	
St. Ann's	2/8/93 (30 days)	
Valley Hospital	11/22/92 (30 days)	3/1/93 (60 days)

APPENDIX D

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Medicaid Rate Advisory Commission

<u>Facility</u>	<u>Type</u>	<u>FYE</u>	<u>DUE</u>	1992 <u>YEC</u> <u>Report</u> <u>Rec'd</u>	<u>Comments</u>
Alaska Psychiatric Ins.	LTC	6/30	10/28	10/28/92	Complete
Bartlett Memorial Hos.	Acute	6/30	10/28	11/05/92	FS not recieved
Central Peninsula	Acute	6/30	10/28	10/29/92	Complete
Cordova Comm. Hosp.	Comb.	6/30	10/28	01/11/93	Complete 02/12/93
Harborview Devel. Ctr.	ICF/MR	6/30	10/28	12/21/92	Ext. to 12/15/92
Hope Cottages	ICF/MR	6/30	10/28	12/24/92	Ext. to 12/28/92
Ketchikan Gen. Hosp.	Comb	6/30	10/28	10/02/92	10/20/92 Complete
North Star Hospital	Acute	6/30	10/28	10/29/92	11/15/92 Complete
Petersburg Gen. Hosp.	Comb.	6/30	10/28	10/14/92	Complete
Seward Gen. Hosp.	Acute	6/30	10/28	12/31/92	Ext. to 12/31/92
Sitka Comm. Hosp.	Acute	6/30	10/28	10/28/92	Complete
So. Peninsula Hosp.	Comb.	6/30	10/28	10/15/92	FS not received
Wesley Rehab. Ctr.	LTC	6/30	10/28	10/09/92	Complete
Wrangell Gen. Hosp.	Comb.	6/30	10/28	10/09/92	Complete
Humana Hosp.	Acute	8/31	10/28	12/29/92	Complete
Charter North	Acute	9/30	10/28		Ext. to 3/29/93
Kotzebue Sen. Citi.	LTC	9/30	10/28		Ext. to 3/29/93
Norton Sound	Comb.	9/30	10/28		Ext. to 3/29/93

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER APPENDIX E

AUDIT UNIT
P.O. BOX 110602
JUNEAU, ALASKA 99811-0602
PHONE: (907) 465-3120

M E M O R A N D U M

Date: February 23, 1993
To: Jay Livey
Deputy Commissioner
From: *MS* Michael Sanders
Audit Unit Manager
Subject: Status of Audits

During the past twelve months the Department has made significant progress in facilities audits.

As you know we have been contracting with KPMG Peat Marwick for the past audits, while Department staff auditors have been doing audits of current base periods.

During the past several months KPMG Peat Marwick has forwarded to this office for review, forty-nine Preliminary Facility Audits.

The first contract still has eight pending Facility Audits for which KPMG Peat Marwick awaits provider response. The completion of these eight audits will represent a total audit coverage for 1989 and all prior fiscal years.

While this effort has been taking place, the Department staff has issued seventeen Preliminary Audits of current base periods, fiscal years 1990 and 1991. The Department staff is currently engaged in fifteen fiscal year 1992 audits which will be used for the prospective payment rate for fiscal year 1994.

Contract audit effort at KPMG Peat Marwick on the fiscal year 1990 audits has just begun and results from that contract are expected in July, 1993.

Conclusion:

Real progress has been made in the last year toward the goal of all past years audits issued and audit total effort is focused on the current base periods. This has been accomplished through a high level of competent dedication of staff and contract auditors.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 155

Revision Date: 03/18/93 Dept. Affected: Health and Social Services
 Title: An Act Relating to Audits of Health Facilities BRU: Administrative Services
 Component: Audit
 Sponsor: Rep. G. Davis, ...
 Requestor: _____ COMPONENT SERIAL NO. 318

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	381.0	400.0	420.0	441.0	463.0	486.0
TRAVEL	21.0	22.0	23.0	24.0	26.0	27.0
CONTRACTUAL	8.4	8.8	9.3	9.7	10.2	10.7
SUPPLIES	12.0	12.6	13.2	13.9	14.6	15.3
EQUIPMENT	18.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	440.4	443.4	465.5	488.6	513.8	539.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	220.2	221.7	232.7	244.3	256.9	269.5
1003 GF Match	220.2	221.7	232.8	244.3	256.9	269.5
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	440.4	443.4	465.5	488.6	513.8	539.0

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: _____

ANALYSIS: (Attach a separate page if necessary)

- (1) Additional staff: 5 Auditors and a Data Processing Technician.
- (2) Inflate personnel service cost at 5% annually.

Prepared by: Michael R. Sanders, CPA *Michael Sanders*
 Division: Audit

Phone: 465-3120
 Date: 03/18/93

Approved by Commissioner: Theodore A. Mala, MD, MPH *Theodore Mala*
 Agency: Department of Health & Social Services

Date: 3/22/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

Position Title Data Processing Technician III		No. of Positions 1	Range/Step 16A	Bargaining Unit GG
Time Status Full	Staff Months 12.0	Location Juneau		Election District
TYPE of EXPENDITURE		AMOUNT		
Salary		36.0		
Benefits		15.0		
Premium Pay				
Other				
Total Personal Services		51.0		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost				
FUNDING SOURCE for TOTAL COST				
1002	Federal Receipts	25.5		
1003	GF Match	25.5		
1004	General Fund			
1005	GF/Program Receipts			
1006	GF/Mental Health Trust			
1007	I/A Receipts			
1061	CIP Receipts			
Other				
<p>Justification</p> <p>CSHB 155 imposes strict scope and time limits on Medicaid Provider Audits. The addition of these staff members will help offset the restrictions. The Medicaid Audit must be done to standards for Government audits as established by the Comptroller of the United States. Medicaid Audits are a Federal Mandated program.</p>				

**REQUEST for
NEW POSITION**

AGENCY: Health and Social Services
 BRU: Administrative Services
 COMPONENT: Audit 0318

Page 1 of 2

Revised Date:

FY94

Position Title Internal Auditor III		No. of Positions 5	Range/Step 19A	Bargaining Unit GG
Time Status Full	Staff Months 12.0	Location Juneau		Election District
TYPE of EXPENDITURE		AMOUNT		
Salary		45.0		
Benefits		17.4		
Premium Pay				
Other				
Total Personal Services		62.4		
Travel		4.0		
Contractual		1.4		
Commodities		2.0		
Equipment				
Other				
Total Cost		69.8		
FUNDING SOURCE for TOTAL COST		ERROR		
1002	Federal Receipts	35.6		
1003	GF Match	35.6		
1004	General Fund			
1005	GF/Program Receipts			
1006	GF/Mental Health Trust			
1007	I/A Receipts			
1061	CIP Receipts			
Other				
<p>Justification</p> <p>CSHB 155 imposes strict scope and time limits on Medicaid Provider Audits. The addition of these staff members will help offset the restrictions. The Medicaid Audit must be done to standards for Government Audits as established by Comptroller of the United States. Medicaid Audits are a Federal Mandated program.</p>				

**REQUEST for
NEW POSITION**

AGENCY: Health and Social Services
 BRU: Administrative Services
 COMPONENT: Audit 0318

FY94

Page 2 of 2

Revised Date:

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 155

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Al. Act Relating to Audits of Health BRU: Medical Assistance
Facilities... Component: Medicaid Facilities
 Sponsor: Rep. G. Davis,
 Requestor: _____ COMPONENT SERIAL NO. 230

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0
MISCELLANEOUS						
TOTAL OPERATING	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0
CAPITAL						
REVENUE FUND SOURCE						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	4,000.0	4,400.0	4,840.0	5,324.0	5,856.4	6,442.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Michael R. Sanders, CPA *Michael R. Sanders* Phone: 465-3120
 Division: Audit Unit Date: 03/18/93

Approved by Commissioner: Theodore A. Mala, MD, MPH *Theodore A. Mala* Date: 3/22/93
 Agency: Department of Health & Social Services

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

D R A F T

"An Act relating to audits and inspections of health facilities receiving payment for medical assistance for needy persons and to the use of audit and inspection results to set prospective rates, recapture overpayments, and to reimburse underpayments to such health facilities; and providing for an effective date."

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

* Section 1. FINDINGS. The legislature finds that

(1) the state commits a substantial amount of public money to provide medical assistance for eligible needy persons in Alaska, approximately 50 percent of which is reimbursed by the federal government for services covered by medicaid;

(2) the budget for medical assistance in Alaska has dramatically increased over the past 10 years, and in fiscal year 1992 exceeded \$208,800,000

(3) approximately 47% percent of the total medical assistance budget is paid to facilities that provide necessary hospital and nursing home services to needy persons eligible for the program;

(4) in 1983 the legislature authorized the facility's rates for medical assistance to be set prospectively under AS 47.07.070 in order to prudently adjust payment to health facilities and to give the state flexibility in responding to federal funding changes;

Foot-It™ brand fax transmittal memo 7671		# of pages >
To Jay Lively	From Glenn Gustafson	
Co.	Co. Attorney General's Of	
Dept.	Phone # 261-5135	
Fax # 465-3028	Fax #	

(5) the legislature recognized its responsibility then as now, to prudently protect and monitor the spending of public money;

(6) audits are a critical tool in monitoring the spending of public money for facilities receiving medical assistance payments, because auditors review data used to calculate rates and review payment of public money;

(7) changing to a prospective rate-setting system in 1983 did not eliminate the important role of audits in setting fair rates based on reasonable costs for facility services receiving medical assistance payments, even though the rates are prospective in type and, therefore, may require adjustment after the end of the fiscal year for which the rate was set based on audit results;

(8) in 1990 the Alaska Supreme Court ruled in *City of Cordova v. Medicaid Rate Commission*, 789 P.2d 346 (Alaska 1990), that, with respect to Medicaid payments for 1985, the rate setting statute for facilities (AS 47.07.070) was silent on the subject of prospective recoupment from a facility based on audit results and, therefore, precluded recoupment by the program;

(9) it is, therefore, necessary to clarify the legislature's intent that AS 47.07.070 allows the state to reset prospective payment rates, refund underpayments and recoup overpayments based on audit results and allows for the consideration of audit results in rate setting, even though the rate setting statutes previously were silent on the role

of audits;

(10) the issue of what can be done with audit results has been contested for several years and some facilities have relied on the reading of the law set out by the Supreme Court;

(11) the corrective legislation authorized overpayment and underpayment correction for any facility fiscal years beginning after June 30, 1993, by recoupment, assessment, adjustment to the facilities rate, or payment;

(12) the corrective legislation only authorizes correction of overpayment and underpayment for audit and inspection issues identified within twenty-four (24) months following a facilities fiscal year end;

(13) the amendments of AS 47.07.070 in this Act are adopted to make clear that audits are intended to be used to adjust prospective rates, to recoup overpayments of public money, and to provide a sound basis for the state to set rates.

* Sec. 2. AS 47.07.070(a) is amended to read:

(a) The department shall set the prospective rate of payment to a health facility under this chapter and AS 47.25.120 -- 47.25.300 based on a fair rate for reasonable costs incurred by the facility. In setting a rate the department may utilize the results of department audits and inspections. The department may not set a rate until after a public hearing before the Medicaid Rate Advisory Commission, except that this hearing requirement is not applicable if a

new rate is immediately necessary to afford exceptional relief to a facility as determined under regulations adopted by the department. The department shall by regulation list the factors it considers in making its rate determinations under this section. A rate set under this section does not take effect until it is approved in writing by the commissioner of health and social services or the agency assigned by the commissioner to perform this function. The written determination of a rate set by the department after a hearing must include a statement of the department's findings, a description of the basis of the findings and conclusions, a citation to the regulations supporting the findings and conclusions, and a statement of the decision.

* Sec.3. AS 47.07.07U is amended by adding a new subsection to read;

(g) Using results of its audits and inspections of a health facility's books and records, as well as other available information identified within two years of the facilities^{4/3} year end, the department shall

- ✓
- ✓
- ✓
- ✓

(1) recapture overpayments made to the facility, including overpayments made as a result of the departments or facilities^{4/3} errors, by means of assessments, adjustments to the facilities^{4/3} prospective rates, or withholding from payments otherwise due to the facility under this chapter and AS 47.25.120 --- 47.25.300; and

(2) make payments to the facility to correct underpayments^{4/3} identified as a result of the audit. ©

10
20
30
40
50
60
70
80
90
100

* Sec. 4

Sections 2 and 3 of this Act allow audits and inspections of facility to be used in computing and correcting overpayments and underpayments, and allow information acquired in such audits and inspections to be used in setting prospective rates effective after June 30, 1993.

**THE PROPOSED LEGISLATION MAY CONFLICT WITH
FEDERAL LAW AND THE FEDERAL STANDARDS FOR
ADMINISTRATION OF THE STATE'S MEDICAID PROGRAM**

As you are aware, the present dilemma faced by the state with respect to its Medicaid program is that the state is required to perform an audit function but, in light of the Alaska Supreme Court decision in City of Cordova, the extent to which the state may recoup for overpayments identified in audits is unclear. Notwithstanding this uncertainty, HCFA has seized upon the audit results to withhold in excess of \$1,000,000.00 in federal financial participation based upon overpayments identified in the audits. Rather than remedy this serious problem, the proposed legislation merely exacerbates it by creating more onerous restrictions on the performance of audits and use of audit results.

As noted in Mr. Wallner's letter on behalf of HCFA, several provisions of the proposed legislation may conflict with federal law regarding the use of audit results. The serious constraints created with respect to the audit process and the use of audit results could have an enormous adverse effect on state revenues by further reducing federal financial participation with respect to the state's Medicaid program. The seriousness of these problems is evident in Mr. Wallner's statement that HCFA would most likely not approve the state's Medicaid plan if it incorporated the severe limits on the use of audit results contained in the proposed legislation.

Beyond these seemingly insurmountable obstacles, the proposed legislation unduly limits the scope of the audits which may be conducted by the state. Specifically, the proposed legislation would allow for audits of only a facility's "financial records and other documents." See proposed AS 47.07.074(b). This would apparently prevent the state from conducting audits regarding facility economy and efficiency as a way of further implementing the payment standards set forth by federal law. See 42 U.S.C. § 1396a(a)(13)(A) (the "Boren Amendment"), which specifically relates the adequacy of payment to facility efficiency and economy. This undue restriction over the type of audit which may be conducted by the state of a health care facility seems unwarranted.

Jay Livey, Deputy Director
Department of Health and Social Services

April 16, 1993
Page 3

**THE PROPOSED LEGISLATION INAPPROPRIATELY
CONFINES THE EXERCISE OF AGENCY DISCRETION
AND PRESENTS INTERPRETATION AND APPLICATION OBSTACLES**

The purpose of legislation, as opposed to regulations, is to establish general parameters within which the agency may exercise its discretion. Legislation which provides too high a level of detail prevents an agency from fine tuning its procedures to accommodate the realities of the unique and varied situations it may face. The proposed legislation violates this general principle.

For example, proposed AS 47.07.084(1) requires that:

within 30 days after the department's receipt of the facility's year-end report under AS 47.07.082, the department shall notify the facility in writing that it intends to conduct a desk audit or a field audit and shall submit to the facility in writing any questions the department has regarding the year-end report.

From a practical standpoint, the agency may not be able to determine whether it is appropriate to conduct an in-depth field audit without initially having performed a preliminary or desk audit. Further, to require the department to submit any questions to the facility prior to even commencing an audit may be of little practical benefit since, until the auditors have uncovered irregularities, it will be impossible to formulate questions regarding the irregularities. This type of "over-precision" in legislative drafting has resulted in ongoing litigation for the department. For example, the department is currently involved in litigation regarding the interpretation of AS 47.07.070(e), which purports to establish very specific and detailed requirements regarding year-end conformance adjustments.

Another problem with the proposed legislation is that it would establish unclear standards that will inevitably produce protracted litigation. It is apparent from review of the draft legislation that it fails in particular to define certain essential terms and also establishes imprecise standards. For example, in section 3 of the draft legislation, there is a proposal to add AS 47.07.084 to read:

AUDIT GUIDELINES. If the department determines under AS 47.07.082(b) that an audit will be conducted, it shall make a good faith effort to

Jay Livey, Deputy Director
Department of Health and Social Services

April 16, 1993
Page 4

adhere to the following guidelines. (Emphasis added.)

Because the term "good faith effort" is not defined in the statute it is necessarily left for the courts to define. This statutory language would likely spawn significant additional litigation.

**THE PROPOSED LEGISLATION ESTABLISHES INTERNALLY
INCONSISTENT AND CONFLICTING PROCEDURES
AFFECTING MUCH MORE THAN JUST "AUDITS OF HEALTH FACILITIES"**

Section 1 of CSHB 155 would add new subsection (g) to AS 47.07.070. This subsection would provide for the use of "adjustments or rate revisions" in setting prospective rates only if such adjustments or rate revisions are consented to by the facility or are included as final audit adjustments, an undefined term. As a practical matter, this requires that all factors affecting a facility's reimbursement rate, as well as revisions to that rate, be included as part of the audit process. This provision has the effect of incorporating the entire rate-setting process into the audit process. In addition to the fact that this result apparently exceeds the intended goals of the legislation, the provision would make it virtually impossible to set payment rates without the consent of the facility.

Specifically, under the current methodology for setting prospective payment rates, components of the rate with respect to capital costs utilize budget data which are not required to be submitted by the facility until the time set forth in the proposed legislation for conducting and completing the audit has expired. Accordingly, under the legislation currently proposed, adjustments or revisions to the data submitted by the facility with respect to such budgeted data would only be permitted if the facility agreed to such adjustments or revisions. This would make it virtually impossible for the department to make any adjustments or revisions to the budgeted data submitted by the facility.

Further, this subsection applies to revisions in rates with respect to all Medicaid facilities, not merely acute care and long term facilities. Thus, the proposed legislation would be applicable to rural health clinics, home health agencies and outpatient surgical clinics as well. See AS 47.07.900(11). These types of facilities are not regularly audited as part of the rate setting process. Under the proposed legislation no "final audit adjustments" would be available for these facilities and,

Jay Livoy, Deputy Director
Department of Health and Social Services

April 16, 1993
Page 5

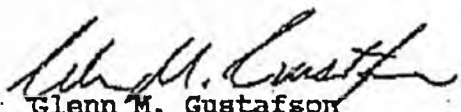
therefore, no adjustments or revisions in rates could be made without these facilities' consent.

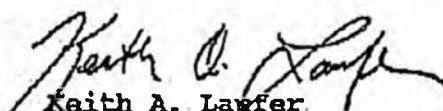
CONCLUSION

If the proposed legislation is adopted in its current form, it will create fertile ground for litigation. It could create parameters for the conduct of audits which would be nearly impossible for the department to meet. The legislation would likely prevent the department from utilizing audit results or make other adjustments in rate setting and prevent the department from recouping past overpayments made to health facilities. Ultimately, this would result in a substantial loss of state funds which could be further exacerbated if there is a reduction in federal financial participation as a result of the legislation. For the reasons set forth above, we do not believe that the department should recommend that the proposed legislation in its current form be adopted.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL


By: Glenn M. Gustafson
Assistant Attorney General
Governmental Affairs-Anchorage


Keith A. Lawler
Assistant Attorney General
Governmental Affairs-Anchorage

GMG/aw



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

April 16, 1993

The Honorable Ron Larson and Eileen MacLean, Co-Chairs
and Members of the House Finance Committee
Alaska State House of Representatives
The Capitol Building, Room 502
Juneau, Alaska 99801-1182

RE: HB 269: Appro: Exxon Valdez Restoration Projects

Dear Representatives Larson and MacLean and Committee Members:

As President of United Fishermen of Alaska and a member of the Public Advisory Group to the Trustees, I have had some suggestions made to me by many of the oil spill impacted fisheries groups. The groups that have spoken with me are Cordova District Fishermen United, Kenai Peninsula Fishermen's Association, and United Cook Inlet Drift Association. I have not yet had the opportunity to speak with the Kodiak fishery groups.

There has been a great deal of concern expressed to me regarding the lack of fisheries projects from the State of Alaska and Trustees process.

Prince William Sound - Alaska
Department of Fish and Game (see proposal)

Wire Code Tag Recovery Programs for Pink Salmon in Prince William Sound. The funds are not available to recover the tags and do a detailed report. This study helps us understand oil spill impacts and the interaction between hatchery stocks and wild stocks.

Kenai Proposal - Alaska Department of Fish and Game

Section 3. Make sure the proposed fund go for habitat restoration. Will this happen if the words restoration and enhancement are left in the Section? Or, could they go for docks and other projects?

Project 1. Development and deployment of in-river sonar counters to replace the existing Bendis counters which are no longer in production and for which no spare parts are available. The new systems would be deployed in the Kenai, Kasilof, Susitna, and Crescent River systems.

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fisherman's Association • Alaska Trollers Association • Area K Selnors Association
Bering Sea Fishermen's Association • Bristol Bay Drilltrollers Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Seafood Producers Cooperative
Southeast Alaska Selnors Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association

The Honorable Ron Larson and Eileen MacLean, Co-Chairs
and Members of the House Finance Committee
April 16, 1993
Page Two

Project 2. Susitna River drainage sockeye salmon studies. These research programs would investigate sockeye salmon at all stages of development and attempt to determine whether lakes in the Susitna system are being fully utilized by rearing sockeye.

Cost: \$1.5 million over a five year period (see attached).

We view these as all worthwhile projects to the second largest industry and State's largest employer.

I would appreciate your consideration of these projects.

Sincerely,



Jerry McCune
President
United Fishermen of Alaska

Enclosures

cc: The Honorable Walter J. Hickel, Governor
The Honorable Harley Olberg, Representative
The Honorable Gail Phillips, Representative
Carl Rosier, Commissioner, ADF&G
UFA Board of Directors

PROJECT TITLE: Prince William Sound Pink Salmon
 Coded-Wire Tag Recovery
 FISHERY UNIT: Prince William Sound Salmon
 COMPONENT: Commercial Fish
 LOCATION: Cordova
 SUBCOMPONENT:
 LEGISLATIVE DISTRICTS: 6,2

PROJECT NUMBER: TF-XXX
 LEDGER CODE: 1101XXX1
 PRINT ORDER: 206_XXX1_
 REGION: 2
 PRIORITY: 1.00

PROGRAM ELEMENT: Stock Structure Analysis
 FISHERIES AFFECTED: Purse Seine and Gill Net

USER GROUPS AFFECTED: Commercial, Hatchery

SPECIES AFFECTED: Pink (100%)

PROJECT DESCRIPTION

Management complexity in Prince William Sound (PWS) pink salmon fisheries has increased due to the Valdez Fisheries Development Association (VFDA) Solomon Gulch Hatchery and the Prince William Sound Aquaculture Corporation Cannery Creek, Wally H. Noerenberg, and Armin F. Koernig hatcheries. Returns to these four hatcheries now outnumber wild returns by almost five to one and mingle with wild returns in migratory corridors as well as in hatchery terminal areas. Fisheries directed at numerically superior hatchery returns in these mixed stock areas may overexploit wild fish which cannot sustain comparable harvest rates. To minimize interceptions of wild fish yet still permit some fishing in non-terminal areas fisheries managers must be able to identify time and area trends in abundance for both hatchery and wild fish. This project will recover coded-wire tags from the commercial gillnet and seine fisheries in the all fishing districts of PWS. It will also recover tags from coast recovery harvest and broodstock from all PWS pink salmon hatcheries. Tag recovery data will be used to make catch stock composition estimates from specific areas and times. These estimates will provide better understanding of stock intermixing among and within districts and weeks. This information can be used to regulate fisheries or modify district boundaries to control exploitation rates on wild and hatchery stocks.

PROJECT OBJECTIVES

To provide estimates of stock composition for specific area and time strata within fishing districts and hatchery terminal harvest areas of Prince William Sound.

BUDGET MANAGER: PCN 1210 - Sam Sharr, PWS Research Project Leader

YELLOWBOOK PAGE 2 PROJECT DESCRIPTION

Salaries computed using FY93 rates.

PROJECT TITLE: Prince William Sound Pink Salmon Coded-wire Tag Recovery PROJECT NUMBER: TF-XXX
 UNIT: Prince William Sound Salmon LEDGER CODE: 1101XXX1
 COMPONENT: Commercial Fish PRINT ORDER: 206 XXX1
 REGION: 2

BUDGET DETAIL: CODE/LINE ITEM	PRIOR YEAR ALLOCATIONS			PAGE 2 SUMMARY
	FY90	FY91	FY92	
100 PERSONAL SERVICES	0.0	0.0	0.0	
200 TRAVEL	0.0	0.0	0.0	
300 CONTRACTUAL	0.0	0.0	0.0	
400 COMMODITIES	0.0	0.0	0.0	
500 EQUIPMENT	0.0	0.0	0.0	
700 GRANTS	0.0	0.0	0.0	
PROJECT TOTALS	0.0	0.0	0.0	
FEDERAL RECEIPTS	0.0	0.0	0.0	
GENERAL FUND	0.0	0.0	0.0	
INTERAGENCY RECEIPTS	0.0	0.0	0.0	
PROGRAM RECEIPTS	0.0	0.0	0.0	
GENERAL FUND MATCH	0.0	0.0	0.0	
STAFF MONTHS	0.0	0.0	0.0	

PERSONAL SERVICES DATA

PCN	TITLE & NAME	R	S	Range		MM	SEADUTY		Premium Pay			TOTAL COST	
				93	94		SWD	RDO	OT	HAZ	SHIFT		
1909	FB II - Peckham C	A	S	DWA	16A	16A	12.0	0	0	0.	0.	0.	\$57,288
1571	FB I - Valdez	A	S	EAA	14A	14A	4.0	0	0	240.	0.	0.	\$21,320
????	FB I - Cordova	A	S	DWA	14A	14A	6.0	0	0	180.	3.	0.	\$30,345
1496	FT III- Speer N	A	S	DWA	11A	11A	6.0	0	0	180.	0.	0.	\$27,117
7072	BMI - Evans D	A	S	EBA	17A	17A	3.0	0	0	0.	0.	0.	\$10,977
????	FT II - Cordova	A	S	DWA	09A	09A	3.0	0	0	120.	0.	0.	\$10,518
????	FT II - Cordova	A	S	DWA	09A	09A	3.0	0	0	120.	0.	0.	\$10,518
????	FT II - Cordova	A	S	DWA	09A	09A	3.0	0	0	120.	0.	0.	\$10,518
????	FT II - Cordova	A	S	DWA	09A	09A	1.5	0	0	60.	0.	0.	\$5,010
????	FT II - Cordova	A	S	DWA	09A	09A	1.5	0	0	60.	0.	0.	\$5,010
????	FT II - Cordova	A	S	DWA	09A	09A	1.5	0	0	60.	0.	0.	\$5,010
????	FT II - Cordova	A	S	DWA	09A	09A	1.5	540	0	90.	0.	0.	\$6,388
????	FT II - Cordova	A	S	DWA	09A	09A	1.5	540	0	90.	0.	0.	\$6,388
????	FT II - Cordova	A	S	DWA	09A	09A	1.0	0	0	60.	0.	0.	\$3,754
????	FT II - Cordova	A	S	DWA	09A	09A	1.0	0	0	60.	0.	0.	\$3,754
????	FT II - Cordova	A	S	DWA	09A	09A	1.0	0	0	60.	0.	0.	\$3,754
????	FT II - Cordova	A	S	DWA	09A	09A	1.0	0	0	60.	0.	0.	\$3,754
????	FT II - Whittier	A	S	DWA	09A	09A	2.0	0	0	100.	0.	0.	\$9,828
????	FT II - Valdez	A	S	EAA	09A	09A	2.5	0	0	200.	0.	0.	\$11,042
????	FT II - Valdez	A	S	EAA	09A	09A	2.5	0	0	200.	0.	0.	\$11,042
????	FT II - Valdez	A	S	EAA	09A	09A	2.5	0	0	200.	0.	0.	\$11,042
????	FT II - Valdez	A	S	EAA	09A	09A	2.5	0	0	200.	0.	0.	\$11,042
????	FT II - Valdez	A	J	EAA	09A	09A	2.5	0	0	200.	0.	0.	\$11,042
????	FT II - Valdez	A	S	EAA	09A	09A	2.5	0	0	200.	0.	0.	\$11,042
????	FT II - Valdez	A	S	EAA	09A	09A	1.5	0	0	120.	0.	0.	\$6,626
????	FT II - Valdez	A	S	EAA	09A	09A	1.5	0	0	120.	0.	0.	\$6,626
????	FT II - Kodak	A	S	CAA	09A	09A	1.0	0	0	100.	0.	0.	\$4,662

YELLOWBOOK PAGE 3 PROJECT DESCRIPTION

Salaries computed using FY93 rates.

PROJECT TITLE: Western Prince William Sound Sockeye and Chum Salmon Stock ID PROJECT NUMBER: TF-XXX
 UNIT: Prince William Sound Salmon LEDGER CODE: 1101XXX1
 COMPONENT: Commercial Fish PRINT ORDER: 206 XXX1
 REGION: 2

0000000

7031 AP III- Juneau	A S AWA 17D 17D	7.0	0	0	0.	0.	0.	\$35,784
7042 FT III- Juneau	A S AWA 11C 11C	7.0	0	0	0.	0.	0.	\$23,975
7038 FT II - Juneau	A S AWA 09C 09C	15.5	0	0	0.	0.	0.	\$48,406
7040 FT II - Juneau	A S AWA 09B 09B	6.0	0	0	0.	0.	0.	\$12,000
Personnel Totals =		108.0	7.2	0	321.	3.	0.	\$435,585

PROJECT LINE ITEM DETAIL

LINE #	DESCRIPTION	AMOUNT	COMMENT
72240	Supervisory travel	7.2	Cdv to Vdz, Kdk, & Wtr
72360	Per Diem	2.4	
73100	Communication	1.0	Phones (Vdz, Anch, Swd etc)
73400	Air Charter	5.1	
73420	Vehicle Rental	3.2	
73400	Transportation	6.8	
73500	Printing	1.0	
73600	Public Utilities	0.5	
73700	Minor Repair & Maint	1.0	
73800	Office Rental (Valdez, Whittier)	1.8	
74220	Office & Library Supplies	4.0	
74520	Profess. & Sci. Supplies	8.0	
77000	Grants	0.0	
TOTAL LINES 200 - 700		42.0	DATE PRINTED 2/09/1993
TOTAL PROJECT COST		477.6	

Lead Agency: Alaska Department of Fish and Game (ADF&G)

Project #1

Cooperating Agencies:

Project Term:

Start Date:

7/1/93

Finish Date:

7/1/96

Project title: Development and Deployment of Hydroacoustic ^{in-river} counters for UCI

INTRODUCTION:

Sockeye salmon *Oncorhynchus nerka* which spawn in the Kenai River system were injured by the Exxon Valdez oil spill. Greatly reduced fishing time in the Upper Cook Inlet area due to the oil spill caused sockeye spawning escapement levels in the Kenai River system to exceed the desired amount by three times. The biological impact of the oil spill on Kenai River sockeye salmon stocks is expected to be serious. Data collected by NRDA Fish/Shellfish Study 27, *Sockeye Salmon Overescapement*, showed greatly reduced survival estimates of juvenile sockeye salmon during the winter-spring rearing period. The extremely high escapement appears to have produced more rearing juvenile sockeye salmon than could be supported by nursery lake productivity. In general, when rearing salmon abundance greatly exceeds lake carrying capacity, the species and size composition of prey resources are altered which, in turn, affects all trophic levels. Because of such changes, juvenile sockeye growth is reduced and freshwater mortality is increased. Greater numbers of fry remain in the lake for another year of rearing. Competition for a limited food supply reduces condition of surviving fry. Marine mortality is increased because of poor condition of outmigrating smolts.

Limiting sockeye salmon fry production by closely regulating the number of spawning adults is the best way to restore the productivity of these rearing areas. However, the number of adult sockeye salmon returning from the 1989 overescapement may be so low that a severe reduction, or complete elimination, of human use of this species may be necessary starting in 1993 to ensure minimum spawning escapements.

This project consists of increased monitoring and management of the sockeye salmon stocks in the Kenai River and Upper Cook Inlet (UCI) north of Anchor Point. The project will benefit subsistence, sport, and commercial fishermen in coastal communities throughout Cook Inlet, from Homer north through Anchorage to Tyonek. In 1992 nearly 10,000 families obtained subsistence permits to harvest salmon in UCI, most targeting Kenai River sockeye salmon. The most recent statistics indicate that nearly 100,000 sport anglers fished the Kenai River for salmon in 1990, spending \$38 million in 1986 dollars. Forty percent of those anglers were from out of state. Of the 1,323 permits licensed to commercial fish in UCI, 80% are fished by state residents with the remaining predominately from Pacific Coast states. Average ex-vessel value (1987-1991) of the UCI commercial salmon harvest was \$ 67.8 million

Bendix Corporation side-scan hydroacoustic equipment has been used since 1978 to count adult sockeye salmon entering the Kenai River to spawn. Lack of Bendix replacement parts and the inability to purchase new Bendix counters will compromise our future ability to provide escapement estimates. Accuracy of estimates would be greatly enhanced through use of newer, more technically advanced equipment.

Evaluation of equipment available from other manufactures in 1992 indicated the unique counting conditions of the Kenai River will require a new series of hydroacoustic counters. In this context, this project is designed to conduct the research and development work associated with developing these counters. Following counter development, the remaining monies will be used to purchase counters for ~~the~~ Upper Cook Inlet hydroacoustic counting sites located in the Kenai, Kasilof, Crescent, and Susitna Rivers. Total cost of research and development is estimated at 1 million dollars. Purchase costs are anticipated to be an additional 1 million dollars for a total project cost of 2 million.

As per your request, here is a suggestion for a Cook Inlet salmon project that the legislature might consider funding. I tried to put it in Yellowbook format. Please note that the budget figures are estimates.

Project Title: Susitna River Sockeye Salmon Production Evaluation
 Fishery Unit: Upper Cook Inlet Salmon
 Component: Commercial Fish
 Legislative District: 5

Program Element: Stock Structure Analysis

User Groups Affected: Commercial and Recreational

Species Affected: Sockeye (100%)

Project Description

The Susitna River is the major salmon producing system in the Northern District of Upper Cook Inlet. Its fishery resources play a major role in the economies of the Matanuska/Susitna and Kenai boroughs as well as the city of Anchorage. Susitna River sockeye salmon stocks contribute about 20% of the total commercial sockeye salmon harvest within Upper Cook Inlet. Presently, adult sockeye salmon escapement is enumerated using hydroacoustics on the Yentna River. However, the Susitna is a very large and complex drainage system and adult sockeye spawn in several lakes, creeks and main river sloughs. A better understanding of the production capabilities of the Susitna River drainage is needed to evaluate escapement goals and harvest strategies. This project will provide detailed information on the contribution of various spawning and rearing areas to total system production by placing adult weirs across streams draining five major lake systems within the Susitna drainage, placing smolt fyke nets or traps within these five streams, collecting limnological data in these five lakes, and conducting rearing juvenile hydroacoustic and tow net surveys within a subset of these five lakes.

Project Objectives

Specific objectives of this project are 1) to enumerate adult sockeye salmon escapements and collect age, size and sex data from five major spawning lake systems; 2) to enumerate smolt (using mark-recapture techniques) migrating from these lakes and to obtain age and size data; 3) to enumerate rearing juveniles in selected lake systems and to obtain age and size data; 4) to determine whether these lakes are being fully utilized by rearing sockeye

juveniles.

Budget Manager: 1255 - Ken Tardox, UCI Research Project Leader

Budget Detail	FT94	9.0 PFT
100 Personal Serv.	175.0	175.0 Other
200 Travel	3.0	
300 Contractual	26.0	
400 Commodities	71.0	
500 Equipment	25.0	
700 Grants	0.0	
Project Totals	300.0	
Federal Receipts	0.0	
General Fund	300.0	
Interagency Receipts	0.0	
Program Receipts	0.0	
General Fund Match	0.0	
Staff Months	45.3	

juveniles.

Project #2

APR 15 '93 10:39AM UCILIA 307 293 303 362 478 709

ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE
 Division of Legislative Audit



P. O. Box 113300
 Juneau, AK 99811-3300
 (907) 465-3830
 FAX (907) 465-2347

MEMORANDUM

TO: The Honorable Mark Hanley
 Chairman, House Finance Subcommittee
 on CSHB 155 (HES)

FROM: Randy S. Welker *Randy*
 Legislative Auditor

DATE: March 29, 1993

RE: CSHB 155 (HES) - An Act relating to audits of health facilities.

Post-It™ brand fax transmittal memo 7671		# of pages	3
To	<i>Jay/Emmet</i>	From	<i>Randy Welker</i>
Co.		Co.	<i>Leg. Audit</i>
Dept.	<i>HES</i>	Phone #	<i>3830</i>
Fax #	<i>3068</i>	Fax #	<i>2347</i>

The Division of Legislative Audit has been asked by both the Department of Health and Social Services and the bill Sponsor to review HB 155 and provide comments. Since the bill will be before your subcommittee tomorrow, I thought it would be most expedient to submit my reply directly to you.

We have reviewed the bill and its accompanying fiscal notes; testimony at previous meetings; position papers from the department and the Alaska State Hospital and Nursing Home Association; and other miscellaneous correspondence. While we have not done any detailed analysis of the department's current audit philosophy or their analysis of the impact HB 155 would have on their operations, I offer the following observations concerning the current language of the bill.

The bill does not allow recoupment based on audit findings

As clarified in the Alaska Supreme Court ruling in City of Cordova v. Medicaid Rate Commission the department does not have the ability to recoup overpayment from facilities based on audit results. We have recommended legislation authorizing this recoupment. Without the authority, the department is caught between the inability to recover and the mandate to reimburse the federal government's share of the identified overpayment. This is unacceptable and clearly not in the State's best interest.

Representative Hanley

-2-

March 29, 1993

The bill exudes frustration with the current backlog and audit process

We have also recommended to the department in the past that there is a need for them to become current in the audit process. The frustration demonstrated by the language in this bill is understandable. However, this legislation does not address the existing audit backlog. The bill's remedies are prospective in that they attempt to prevent future delays in the audit process by establishing time limitations on the completion of audits.

It is our understanding that the department has established a realistic plan to eliminate the current audit backlog. If this holds true, then the focus should turn to the future. While the establishment of an overall audit deadline would not be unreasonable, the myriad of audit procedure deadlines in the bill appears to be overkill. In my first reading of the bill, I noticed, then actually counted, indications of the bill's imbalance. For example, the bill uses the phrase "facility shall" only once and "facility may" seven times. On the other hand, the phrase "department shall" is used seventeen times and "department may" only once. Each "shall" appears to give rise to a potential cause for excluding the results of the final audit from the rate setting process.

Audit process defined in the bill is flawed

The imbalance discussed above is perhaps best demonstrated in the flawed requirement for the department to determine whether a desk audit or a field audit will be conducted. Several requirements of the bill state the department shall determine, within 30 days of receiving the year-end reports, whether a field audit or a desk audit will be conducted. During that 30 day period, the department is to submit to the facility in writing any questions the department has regarding the year-end report.

The facility has 30 days from receipt of the written request to respond if they choose to respond; a response is not mandatory. It appears to us that the facility should be required to respond and that the department would want to consider the response in making the determination to conduct a desk audit or a field audit. The bill does not allow that information to be considered by the auditors.

For the desk audit procedure to be effective, the facilities should be required to respond to questions. Without response, the only way the department has to obtain answers to significant questions is to conduct a field audit.

Likewise, to present a balanced report for consideration, a facility response should be mandatory. The bill as currently written, does not require a response to the preliminary audit.

We agree with the department that several of the procedures outlined in the bill may be best established as regulation. All parties should have a general understanding of the process and the expectations of each other.

Representative Hanley

-3-

March 29, 1993

An additional procedural concern we see is the 20-day limit imposed for field work on an audit. In fact, if the department uses the 30 day period provided for reviewing the year-end report and submitting questions to the facility, and the facility uses the 30 days provided to respond to the questions, the field audit must be completed on the day the response to the preliminary questions may be submitted. This rigid schedule neither provides recognition of potential significant audit issues that may arise and need to be resolved, nor the potential contentious environment the auditors may have to face in the resolution of significant issues.

Summary

While we can understand the frustration that has led to the introduction of this bill, we believe that **COMPROMISE** should be the word for the day. Both the facilities and the department have legitimate concerns. However, in our opinion, this bill does not resolve those concerns in the best interest of the State.

Until a compromise bill is developed, we would not recommend the passage of CSHB 155 (HES).

cc: Representative Gary Davis
Alaska State House

Jay Livey, Deputy Commissioner
Department of Health and Social Services

Garrey M. Peska, CPA
Vice President, Financial Affairs, ASH&NHA

[Faint, illegible text, possibly a routing slip or stamp]



DEPARTMENT OF HEALTH & HUMAN SERVICES

Elmer/HB
Health Care
Financing Administration

Region X
M/S RX-43
2201 Sixth Avenue
Seattle, WA 98121

FM:GHAYASHI:ad
2810

MAR 16 1993

Jay Livey, Deputy Commissioner
Department of Health and Social Services
Post Office Box 110602
Juneau, Alaska 99811-0602

ii) Dear Mr. Livey:

In response to your request of March 4, 1993, we are providing comments on House Bill No. 155 (HB 155) which proposes significant revisions to existing State statutory provisions relating to audits of health facilities. The effectiveness of the audit process is dependent not only on specific procedures and standards required of the State's audit resource, but also similar constraints and required actions of the facilities subject to audit. HB 155 appears to place the onus of the audit process strictly on the State, with few apparent deterrents against and obligations required of the health facilities that ensure effective and timely audit results. This will become apparent through our discussion of several pertinent activities/functions of the audit process that are vaguely or not addressed in HB 155. More importantly, if HB 155 passes and is signed into law, HCFA most likely will not approve a State plan amendment that contains the bill's provisions precluding the application of valid audit adjustments if the audit process is not concluded within 165 days of receipt of a facility's year-end report.

Federal Requirements on Audit

Before conveying our observations on HB 155, mention of the Federal requirements on audit are necessary to provide the State with a basis to fully comprehend our comments.

Section 1902(a)(13)(A) of the Social Security Act (Act) requires that the State plan must provide for the payment of inpatient hospital and long-term care (LTC) facility services through the use of payment rates that the State finds and makes assurances, are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities. The State must make further assurances including providing for periodic audits. The intent of this statutory provision is to utilize the audit process to verify that payment rates were set in accordance with the approved State plan. This statutory provision evolved from the Omnibus Reconciliation Acts of 1980 and 1981. Both made significant changes in the provisions of the Medicaid law pertaining to reimbursement for LTC facility and inpatient hospital services.

In the implementing regulations, HCFA did not specify detailed cost reporting and audit requirements, but permitted States to implement their own systems in order to reduce the administrative burden, for States and facilities, of complying with the new regulations. Concerning audits of LTC facility cost reports, HCFA further explained that current regulations dealing with a minimum level of audit activity (audit of 15 percent of all facilities each year), audit procedures, cost report desk analysis, audit of all facilities' records over a 3-year period, audit reports, and accounting for overpayments found in audits were deleted. States no longer had to rely on the audits performed by Medicare intermediaries on hospitals because of the change in the law that eliminated the Medicaid requirement that States pay the reasonable costs of inpatient hospital services under methods and standards that adopt the Medicare standards and principles for determining reasonable cost reimbursement.

States were also cautioned that HCFA expects that States would under the revised regulations maintain the minimum level of audit activity needed to ensure that payments are being made in accordance with their State plans and to detect and correct provider fraud and abuse. The audit requirement, which was initially codified as a general provision, was realigned to one subject to State assurances. To receive approval of a change in methods and standards, the State must make assurances satisfactory to the Secretary that it provides for periodic audits of financial and statistical records.

Limit on Completing the On-site Audit

HB 155 provides that the field audit must be completed within 60 days of the State's receipt of the facility's year-end report. However, other timeframes imposed by HB 155 could restrict the actual on-site audit verification and exit conference to only 20 days. Within 30 days of receipt of the year-end report, the State must complete the preliminary review of the report and advise the provider that a desk audit or field audit will be conducted. If a field audit is to be conducted, the State cannot begin the audit until at least 10 days after the facility has received the notice that an audit will be conducted.

We have two concerns with the time constraint on field audits. The quality of the audits may be jeopardized and specifically, that the audit standards ("Standards For Audit of Governmental Organizations, Programs, Activities, and Functions") may be circumvented. Also, we are concerned that comprehensive audit coverage may not be provided because of the following circumstances:

1. If a desk review rather than an audit is performed, the desk review must be completed within 60 days of receipt of the year-end report. If during the desk review, the State determines that an audit is necessary, HB 155 provides that a field audit can be undertaken. However, there is no provision as to when the field audit must be completed. HB 155 appears to require the completion of such audits within 60 days of receipt of the year-end report.

2. Any questions that the State may have that result from the preliminary review of the year-end report must be communicated to the facility for a response in the notice advising the facility that an audit will be conducted. HB 155 further provides that the facility, within 30 days of receipt of these questions, may submit a response. Assuming the facility does respond within this timeframe, the field audit may be nearing completion or could have been concluded, thus affording the State with no means to verify the response. There is no requirement that the facility must respond to the State's questions. In fact, if it becomes evident that a response will not be submitted while the audit is being conducted, HB 155 appears to preclude the State from pursuing resolution of these questions as a specific field audit step because, at the entrance conference, the lead auditor must fully inform the facility of the areas that the audit will focus on. This requirement also leads to another complication. If, during the audit, the State concludes that another area should receive audit review, HB 155 appears to preclude the State from pursuing and resolving a new concern.
3. Completion of the audit is often delayed because of untimely responses from facilities to the auditor's request for additional information. HB 155 does not address this issue.

Finally, because most of the Alaska providers have either a December 31 or June 30 fiscal year end, this provision may severely tax State resources. The State is somewhat dissatisfied with contracting audits and furthermore, the HB 155's restrictive timeframe may preclude contracting audits because of the lengthy time to secure a contract. If the State were to increase audit staff, there will be periods of time where the staff will not be fully utilized. Specifically, we can envision the State's audit staff being occupied with audits during only four months of the year.

Time Limit on the Completion of the Audit Process

HCFA's major concern with HB 155 is a provision that the entire audit process, i.e., preliminary review, field work, receipt of the provider's response to the audit results, and the issuance of the preliminary and final audit reports, must be completed within 165 days of the State's receipt of the year-end report. If the State does not meet the "165 day provision", it cannot use the audit results to calculate payment rates for the rate year in which the year-end report is used as the base year or for any fiscal period that commences fewer than 80 days after the facility receives the final audit report. If this provision is submitted as a State plan amendment, HCFA will most likely not approve it. Although the State may be barred from applying an audit adjustment because the 165 day limit had lapsed, this will not preclude HCFA from the recovery of any resulting overpayments. Overpayments resulting from audits of financial and statistical records of providers are governed by three sections of the Act.

1. Section 1903(d)(2)(A) provides that the quarterly Federal payments to the State under Title XIX of the Act are to be reduced to make adjustment for prior overpayments that the Secretary determines have been made.
2. Sections 1903(d)(2)(C) and (D) provide that a State has 60 days from the discovery of an overpayment for Medicaid services to recover or attempt to recover the overpayment from the provider before adjustment in the Federal Medicaid payment to the State is made and that adjustment will be made at the end of the 60 days, whether or not recovery is made, unless the State is unable to recover from the provider because the overpayment is a debt that has been discharged in bankruptcy or is otherwise uncollectible.
3. Section 1903(d)(3) further provides that the Secretary will consider the pro rata Federal share of the net amount recovered by a State during any quarter to be an overpayment.

There is one final disturbing feature of the 165 day provision that needs to be addressed. Should the audit process expire because of this limitation (for discussion purposes, the audit of a 1991 year-end report), resulting audit adjustments that benefit or favor the facility can be included in a subsequent year's (e.g., 1993) final audit report if the facility submits a request with its 1993 year-end report or any time up to 120 days after either the date the year-end report is due or the date the State received the report. The State must include the requested adjustments in the final audit report unless it has a basis for exclusion. Is HCFA to assume that the State would contest its own audit adjustment? Furthermore, if the 165 day provision should lapse on the 1993 year-end report, the facility can request a formal administrative hearing. HB 155 seems to favor the facility. This aspect of HB 155 attests to our perception that a facility, and not the State, has a resource that appears to be detrimental to the integrity of the audit process.

Other Areas of Concern

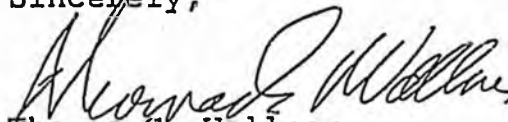
We have several other concerns, most stemming from the ambiguity of provisions of HB 155.

1. HB 155 has no provision on a facility's submission of an incomplete year-end report. Specifically, will the 60 day audit or desk review and the 165 day limits commence when an acceptable report is received?
2. There is no provision for time limits on appeals of audit adjustments, specifically, how long this process should take.

3. Under HB 155, the Medicaid Rate Advisory Commission will establish two proposed payment rates for each facility. One rate will incorporate all final audit adjustments agreed to by the State and the facility. The other rate will include the final audit adjustments that are not subject to a "formal administrative hearing or other administrative or judicial review " and are agreed to by the State and the facility. This second rate will serve as the basis for the rate adopted by the State. The purpose of the first rate is not addressed in HB 155.
3. It appears that HB 155 will limit the review function of the Medicaid Rate Advisory Commission to the extent that facility budgets will be accepted as submitted.
4. There is no provision in HB 155 as to whether an amended year-end report can be subjected to an audit.

We appreciate the opportunity to provide comments on HB 155. If there are any questions, please contact me or Guy Hayashi at 206/553-8157.

Sincerely,



Thomas G. Wallner
Associate Regional Administrator
Division of Medicaid

cc: Michael Sanders; Audit Unit Manager
Jack Nielson; Executive Director

STATE OF ALASKA * DEPARTMENT OF HEALTH & SOCIAL SERVICES

Position Paper
HB No. 155

Purpose

HB 155 proposes changes to State law regarding the scope and timing of and procedures to be used during audits of health facilities which receive medical assistance payments.

Background

The Department of Health and Social Services, through the Medicaid program, pays Alaska hospitals and nursing homes approximately \$114 million to provide health care to medicaid eligible Alaskans.

The Alaska Supreme Court ruled in Cordova v. State of Alaska (1990) that the State did not have the statutory authority to collect audit rate adjustment overpayments paid to Alaska health facilities.

This decision was based on the Alaska Supreme Court's interpretation of the Statute governing methodology used by the State to establish medicaid payment rates for facilities. The Court ruled that the Statute requiring prospective methodology precluded recoupment of overpayment. A prospective methodology means that a basic rate is applicable during a year and that after the end of that year the compensation to the facility cannot be changed as a result of audit information. Consequently, the Department has been forced to shift its audit focus to assuring the accuracy of prospective payment amounts and, therefore, prevent overpayment from occurring. This occurs by basing payments on audited financial information.

The department has not been current with it's facility audits since the beginning of the prospective payment system for a number of reasons including, complexity of the system, conservative audit budgets, and delays in the beginning. During the last two years the department has made significant progress in catching up with the backlog of provider audits and expects that effort to continue. We expect to be current in the next 12 months. (Appendix E)

The Division of Legislative Audit included a recommendation (appendix A) in a special audit 06-4428-92, that the department seek statutory revision of Title 47 in order to provide authority for recoupment from health care facilities based on audit results. The department would support legislation which; 1) streamlined the audit process, assisting with the catchup and keep current effort; 2) allowed recoupment from health care facilities, and; 3) allow the use