

**ALASKA LEGISLATURE**

**1446**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996**

**Section 10-12** - This section of the bill also makes minor technical and clarifying amendments to AS 44.88.540, 44.88.550(a), and 44.88.560 consistent with the other changes to the business assistance program made under the bill.

**Sections 13-15 - Modifications To Statutory Definitions**

**Section 13**- Amends AS 44.88.900(3) to clarify that energy related projects may qualify for AIDEA's development finance program.

**Section 14**- Amends AS 44.88.900(7) to clarify the definition of loan participation.

**Section 15**- Amends AS 44.88.900(9) to eliminate a reference to "small enterprise" from the definition of "project." Currently, AIDEA projects may include several different types of business activities. Under current law, one such type of business activity is a "commercial activity conducted by a small enterprise." Except for references in the definition sections of AIDEA's statutes, no further reference is made to a "small enterprise." The bill amends the definition of a project to eliminate the reference to "small enterprise." The bill does not modify any of the other requirements affecting AIDEA's ability to enter into projects.

**Section 16- Repeals**

AS 44.88.500(b), 44.88.542 and 44.88.599(1) are repealed to be consistent with the elimination of the business assistance fund under section 7 of the bill.

AS 44.88.900(14), the definition of "small enterprise" is repealed to be consistent

with section 15 of the bill.

**Section 17(1)- Repeal of Certain Bonding Authority-**

Section 17(1) repeals certain legislative authorization for AIDEA to issue bonds for projects which no longer require AIDEA financing. This section repeals legislative authorization for AIDEA to issue \$40,000,000 in bonds related to aircraft fueling facilities at Anchorage International Airport. The involved airlines self financed the facilities. In addition, this section repeals legislative authorization for AIDEA to issue \$50,000,000 in bonds for the Midrex facility originally proposed for Point McKenzie. If the project proceeds it will not be developed at Point McKenzie.

**Background.** Although no bonds are issued and none are intended to be issued with respect to the AIA fueling facilities and the Midrex facilities, the existing legislative authorization must be reported in AIDEA's official statement for each AIDEA bond issue. Legislative authorization for projects that are not proceeding creates confusion on the part of potential bond investors. The bill would eliminate the unneeded bonding authority and therefore eliminate the official statement reporting requirement.

**Section 17 (2)- Repeal of Business Assistance Sunset-**

This section repeals the sunset for the Authority's business assistance loan guarantee program. Under current law the business assistance program will sunset on July 1, 1996.

**Background.** The business assistance program was created under legislation adopted in 1988 that included a provision that would have repealed the program July 1, 1991. Subsequent legislation in 1991 and 1993 extended the delayed repeal to July 1, 1993 and July 1, 1996 respectively.

**Section 18-19 - Specific Project Authorization to Issue Bonds**

**Background.** As noted above, section 2 of the bill requires legislation for AIDEA to issue bonds if the principal amount of the bonds exceeds \$10,000,000 and the bonds "affect the credit of the authority". While the meaning of the last phrase is not entirely clear it is assumed that the issuance of bonds for both the Red Dog Expansion and Snettisham acquisition would require legislative authorization.

**Section 18 - Red Dog Authorization** Section 18 authorizes AIDEA to issue up to \$60,000,000 in AIDEA bonds to finance the expansion of AIDEA's DeLong Mountain Transportation System facilities serving the Red Dog Mine.

**Background.** The DeLong Mountain Transportation System (DMTS) serving Cominco's Red Dog Mine was AIDEA's first development finance project and has been a resounding success. The Red Dog Mine operations provide more than 350 jobs, accounting for more than 15% of all jobs in the Northwest Arctic Borough. Expansion of the DMTS is necessary to support Cominco's expansion of the Red Dog Mine, will provide up to 70 more jobs and allow the mine to continue employing Alaskans in the region for the next 50 years. Cominco will pay for the improvements to the DMTS in the form of increased user fees for the facilities.

**Section 19- Snettisham Acquisition Authorization** Section 19 authorizes AIDEA to acquire the Snettisham Hydroelectric Project from the federal Alaska Power Administration and authorizes the issuance of up to \$100,000,000 in AIDEA bonds for the purpose. In addition, under subsection (c), the bonds issued by AIDEA for this purpose may carry the "moral obligation" of the state.

**Background.** Snettisham is a 78 megawatt facility serving Juneau and Douglas. Acquisition of the project by AIDEA will be supported by a long-term "take-or-pay" power sales agreement with Alaska Electric Light and Power and is expected to provide long-term rate stability for its Juneau and Douglas customers. If the state does not purchase Snettisham, it may be sold to the highest bidder, likely to be a non-Alaskan entity.

**Section 20- Immediate Effective Date**

Section 20 provides for an immediate effective date. As noted above, existing law prohibits AIDEA from issuing any bonds, and hampers AIDEA's ability to fulfill its mission. The immediate effective date will restore AIDEA's bonding authority at the earliest possible date.

### Comparison of CS HB 526(L&C) to HB 425

While there are several technical non-substantive differences between CS HB 526(L&C) and HB 425, there are only a few significant substantive differences. The following will summarize those substantive differences:

Bonding Authority - SB 222 (section 2) would require legislative approval for the Authority to issue bonds in an amount greater than \$10,000,000 to assist in the financing of a development project. CS HB 526 (L&C) (section 2) requires legislative approval for the Authority to issue bonds in an amount greater than \$10,000,000 if the bonds "would affect the credit of the authority." Thus under CS HB 526(L&C) legislative approval may be required for bonds issued that are unrelated to AIDEA's development finance program if the bonds exceed \$10,000,000 and affect AIDEA's credit. The meaning of this last phrase is unclear as all bonds (with the possible exception of conduit revenue bonds) have impact on AIDEA's credit.

Business Assistance Program - Interest Guarantee - Under HB 425, an amendment was made to AS 44.88.535(a)(1)(C) that would have allowed AIDEA to waive collateral on loan guarantees "in the manner and under requirements established by the authority by regulation." CS HB 526(L&C) would only allow the waiver of collateral on loan guarantees of \$100,000 or less if the proposed loan amortization period does not exceed five years.

**Comparison of CS HB 526(L&C) to CS SB 222(STA)**

While there are several technical non-substantive differences between CS HB 526(L&C) and CS SB 222(STA), there are only a few significant substantive differences. The following will summarize those substantive differences:

**Bonding Authority**- Under CS SB 222(STA) (section 2) legislative approval would be required for AIDEA to issue any bonds to assist in the financing of a development project. Under CS HB 526(L&C) (section 2) legislative approval is required for AIDEA to issue bonds in an amount greater than \$10,000,000, regardless of the purpose of the bonds, if the bonds "affect the credit of the authority."

**Business Assistance Program-Collateral Waivers**- CS SB 222(STA) would allow the authority to waive collateral for loan guarantees in the manner and under requirements established by AIDEA under regulation. CS HB 526(L&C) only permits the waiver of collateral for loan guarantees under \$100,000 if the loan amortization period does not exceed five years.

**Business Assistance Program - Interest Guarantee** - Under CS HB 526(L&C) (section 9), an amendment would be made to AS 44.88.536(o) that would allow the authority to guarantee interest on loans guaranteed under the business assistance program for the time and in the manner established by regulation. CS SB 222(STA) does not include this amendment and therefore, under that bill, the Authority would not be allowed to guarantee the payment of interest under the program.

**Business Assistance Program - Sunset** - Under CS HB 526(L&C) (section 17(2)) the sunset for the business assistance program would be repealed. Under CS SB 222 (STA) (section 17) the sunset is extended until July 1, 1999.

**Business Assistance Program -Transition Provision** - CS SB 222 (STA) includes a transition provision (section 20) not provided in CS HB 526(L&C). Under the CS SB 222(STA) provision, upon the elimination of the business assistance fund as provided in the bills, assets in the fund would be transferred to the Authority's revolving fund.

# LEGAL SERVICES

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## MEMORANDUM

March 19, 1996

**SUBJECT:** Alaska Industrial Development and Export Authority  
(CSHB 526(L&C))

**TO:** Representative Pete Kott, Chair  
House Labor and Commerce Committee

**FROM:** Tamara Brandt Cook  
Director *TBC*

Here is the sectional summary that you requested.

Sec. 1. Adds as an exemption to the State Procurement Code contracts related to integrated transportation and port facilities owned by AIDA.

Sec. 2. Requires legislative approval of bonds in an amount greater than \$10,000,000 if the bonds would affect the credit of the authority.

Secs. 3-5. Changes reference to "loan financed" to read "loan participation purchased."

Sec. 6. Technical change deleting "the members of."

Sec. 7. Eliminates the business assistance fund. Allows AIDA to guarantee new business assistance loans and new business assistance loans made to refinance existing loans without requiring that the guarantees be made with money in the business assistance fund.

Sec. 8. Technical change.

Sec. 9. Increases the amount of a loan guarantee from \$75,000 to \$100,000 for which AIDA may waive collateral. Permits AIDA to guarantee a loan if the proceeds will be used to benefit a business conducted in the state. The current provision allows a guarantee of a loan made to a business with a majority interest held by state residents. Permits AIDA to guarantee the payment of interest on the guaranteed portion of a loan, while existing law forbids this.

Sec. 10. Technical change.

Representative Pete Kott

March 19, 1996

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**Sec. 11.** Applies interest rate limitation on loans guaranteed by AIDA to financial institutions only.

**Sec. 12.** References to the business assistance fund are deleted.

**Sec. 13.** Expands the definition of "development project" to include a facility for the generation, transmission, development, transportation, conversion, or use of energy resources.

**Sec. 14.** Expands the definition of "loan participation" to allow the purchase of a portion of a loan at any time before money from the loan is disbursed to the borrower.

**Sec. 15.** Expands the definition of "project" to include commercial activity by a business, whereas the existing provision applies only to commercial activity of a small enterprise.

**Sec. 16.** Repeals the provision stating that the holder of a debt instrument for a loan guaranteed by AIDA has no recourse to the assets of AIDA beyond those designated by the authority from its reserves. Repeals a provision dealing with discounted loan purchases. Repeals a definition applicable to the business assistance fund, which is eliminated in this bill. Repeals the definition of small enterprise.

**Sec. 17.** Repeals the bond authorization for a public use aircraft fueling facility at the Anchorage International Airport and for a port facility related to an iron ore processing facility at Point Mackenzie. Repeals the sunset provision that applies to AS 44.88.500-599.

**Sec. 18.** Authorizes AIDA to issue bonds for port facilities related to the DeLong Mountain transportation system.

**Sec. 19.** Authorizes AIDA to acquire the Snettisham hydroelectric project, issue bonds in connection with the acquisition, and establish a capital reserve fund to secure those bonds. If a capital reserve fund is established, the legislature may be asked for appropriations for the fund.

**Sec. 20.** Immediate effective date.

TBC:plm  
96-086.plm



**- Attachment to Sectional Analysis -**  
**AIDEA DEVELOPMENT FINANCE PROJECT REVIEW AND APPROVAL PROCESS**

**HISTORY AND BACKGROUND**

- The Development Finance Program has its roots in the original DeLong Mountain Transportation System (DMTS) project to support the opening of the mining district that includes the Red Dog Mine.
  - Financial safeguards in the original legislation required that before approving a project financed under the Development Finance Program, the Authority must prepare a finance plan (Ch. 162 SLA 1984) which includes:
    - An estimate of the total cost of the project;
    - Sources of funds for the project;
    - An estimate of the operational costs of the project;
    - Sources of money to pay for operational costs.
  - Additionally, the Authority was required to submit the finance plan to the State Bond Committee, Governor, and Legislature before issuing bonds or otherwise incurring debt for the project.
  - These and other safeguards have been added to AS 44.88 for application to all Development Finance projects undertaken by the Authority.
  
- The Development Finance Program realizes the benefits of tax exempt debt as allowed by the Internal Revenue Service (IRS) Code. Most categories of the Code require governmental ownership. Through Authority ownership the benefits of tax exempt debt, and a strong credit rating, can be reflected in lower rental payments from the industrial user. This, in turn, has a positive effect on the financial feasibility of a project, sometimes making the difference as to feasibility. A lease and user agreement contains provisions for construction, operation, indemnification and rent payments to the Authority.
  
- The Program is guided by the provisions of AS 44.88.172. Statutory safeguards contained in AS 44.88.095(c) require the Authority's Board of Directors to find, on the basis of all information available:
  - Project is economically advantageous to the state and the general public welfare;
  - Project applicant is financially responsible (credit analysis);
  - Demand on public facilities can be supplied reasonably; and
  - Project will provide/retain employment consistent with the size of the investment.
  
- Before adopting a resolution approving the issuance of bonds under the Development Finance Program, AS 44.88.095(d) further requires that:
  - The Project is economically and financially feasible and able to produce revenue adequate to repay the bonds;
  - The Project complies with applicable law; and
  - Issuing the bonds is not expected to adversely affect other credit instruments of the state.

- The requirements for finance and the sale of bonds have been met for the original DMTS, the Unalaska Marine Center, the Skagway Ore Terminal, the Healy Clean Coal Project and the Federal Express Line Maintenance Hangar.
- Projects awaiting authorization by the Legislature under the Development Finance Program are the expansion of the DMTS and the acquisition of the Snettisham Hydroelectric Project. How the process will be applied to these projects is explained below.

## THE DEVELOPMENT FINANCE PROCESS

Following are the review steps undertaken when financing is sought under the Development Finance Program. Later, this general treatment will be applied in a discussion of the DMTS and Snettisham projects.

- Approach by the Customer - Staff of the Authority meets with customers seeking financing assistance through AIDEA. Staff discusses with the customer options for either a loan under the Credit Program or infrastructure development under the Development Finance Program. If a potential project is appropriate to the Development Program process, the benefits of tax exempt financing along with the limitations under the tax code, the Authority's costs associated with a financing, and the requirements likely to be included in a lease and user agreement are explained to the customer.
- Information Collection - If the customer is interested in pursuing a development project and lease, staff of the Authority then collects information appropriate to the findings that must be made under 44.88.095(c) and (d) as explained above.
- Feasibility Analysis - The core of the business decision to undertake a project is a feasibility analysis. Usually this is done by a third party with the guidance of staff. The consultant team chosen to do the analysis is selected based on its knowledge and experience in the business area of the project. Capital costs are evaluated for adequacy and the debt service for the project is calculated. Operating costs are estimated. Revenues are estimated and income, net of debt service and operating costs, is determined to establish profitability of the project.
- Credit Review - In addition to a positive finding of financial feasibility, the Authority also requires a customer to have substantial credit strength to perform its obligations under the lease and user agreement. A credit analysis is performed by the authority's financial advisor to assist in the determination of credit worthiness.
- Lease and User Agreement Negotiations - With the feasibility and credit aspects determined, a lease and user agreement is negotiated among the parties. This agreement may be subject to other agreements, such as a land lease, acquisition of regulatory agency approvals (permits), and the approval of the legislature if bond

authorization is required. The status of negotiations and progress of the project at the time bond authorization is sought would depend on the time the legislature convenes.

- Legislative Approval - Legislative action is required when the dollar value of a project exceeded the threshold requiring legislative approval.
- Local Government Concurrence - The statutes provide that local government must concur with a project being sighted in its jurisdiction. This is obtained by resolution of the local governing body before the Authority's Board of Directors acts on the project.
- Board Action - The Board of Directors considers the information listed above, and documents its finding in a resolution whether to approve the project for implementation under the Development Finance Program.
- Bond Sale & Construction - Documents are prepared for the sale of bonds, and construction documents are bid for the project. With funds in hand, a contract is awarded for the construction. When the facility is placed in service the Authority monitors operation and maintenance as provided by the lease and user agreement.

#### DELCONG MOUNTAIN TRANSPORTATION SYSTEM EXPANSION

The process, as explained above, has specific application to the DMTS expansion as follows:

- Cominco Alaska (CAK) is well known to the Authority. Performance under the Cominco - AIDEA agreement has been excellent. Annual payments to the Authority of \$12 million have been timely and commitments to others, in terms of local hire, have been met. The performance by CAK is particularly noteworthy considering the last several years have seen low prices for base metals.
- The proposed expansion will lower the break-even price for the CAK operation and position the company for greater profitability when higher base metal prices are obtained. (The mine has been operating at or below its break even point for most of its 5 years of operation.)
- The expansion project qualifies under the definition of a development project, but the bond authorization of \$85 million requires legislative approval. Legislation originally introduced in January, 1996, required \$60 million bonding authorization. The authorization was increased due to a budget revision caused primarily by a recently completed re-evaluation of the ore grade at the mine. By recognizing an ore reserve grade increase from 17.8% zinc to 19.5% zinc, another 160,000 tons of ore concentrates will be produced annually. This raises the expected annual throughput at the DMTS port to 1,250,000 tons, and requires a consequential enlargement of facilities. This and other refinements in the budget, including increases in capitalized interest and larger construction costs for freight and camp

accommodations, have been reviewed by staff of the Authority. Based on this review, staff has found that the scope of construction has been sufficiently defined through the ongoing engineering effort, and sufficient monetary reserves have been established for the Project to be completed for the bond authorization requested.

- A feasibility analysis by Stanford Research Institute (SRI) is in preparation. Preliminary results of the analysis show the Project to be feasible.
- When the DMTS was originally built Cominco agreed to provide a Letter of Credit to secure the first ten Minimum Annual Assessments. AIDEA will look for similar security for the expansion project.
- Negotiations of an amended lease and user agreement will begin in April 1996.
- The findings required by AS 44.88.095(c) and (d) recognize the following:
  1. Project economically advantageous to the State
    - 105 new jobs created plus added stability for the existing 350 jobs.
    - Cominco's payments to the N. W. Arctic Borough, in lieu of taxes, totaled \$2.5 million last year. The Borough uses these funds, in part, to match grants from the federal government and others.
  2. Applicant financially responsible
    - To be addressed by SRI report and credit analysis by the Authority's financial advisor, Public Financial Management.
    - Credit enhancement, if needed, will be included in the lease and user agreement to secure the Authority's position.
  3. Demand on Public Facilities - None; stand alone facility. The Northwest Arctic Borough has provided local government concurrence.
  4. Provide/retain employment consistent with size of investment.
    - Considering the security that will accompany the \$85 million investment, the 105 new jobs created are consistent with the investment. The \$22 million annual payroll at Red Dog is one-third of the total payroll in the Northwest Arctic Borough. A substantial portion of the balance of the borough economy relates to indirect employment associated with the mine.
  5. Economic and Financial Feasibility - The SRI report is expected to show the project is economically and financially feasible.
  6. Project to comply with applicable law.
    - The regulatory agency review and permit process will be complete before bonds are sold.
    - Water quality in Red Dog Creek has improved as the direct result of the mine.
    - The relationship between CAK and the NANA subsistence committee is effective in dealing with concerns for whale migrations near the DMTS Port, and caribou migrations across the DMTS access road.
  7. Bonds will not affect adversely other credit investments of the state.
    - Bonds will either rely on the credit strength of CAK or will be sufficiently credit enhanced to be a secure investment for AIDEA.

-The bonds will be rated on their own right and will not adversely affect other credit investments.

## SNETTISHAM PROJECT ACQUISITION

1. Project economically advantageous to the State - The proposed divestiture of the federal Alaska Power Administration (APA) and the sale of the Snettisham Hydroelectric Project was approved by President Clinton and signed into law on November 28, 1995. The underlying reasons for the divestiture are to cap local electrical rates and protect consumers from future "rate reform" by Congress; and to allow for the elimination of the APA, which has outlived its usefulness and initial purpose. Under State ownership this project will provide reliable low cost electric power to the people of Juneau in an environmentally sensitive manner while insuring full repayment of the State's investment. Alternatively, if the project is sold to a private independent power producer it would most assuredly result in higher power rates.
2. Applicant financially responsible - Since project start-up nearly 20 years ago, AEL&P, the Juneau utility, has been purchasing nearly all the project's power and reliably transmitting it to Juneau rate payers. The project presently provides about 80 percent of Juneau's electrical load requirement. Under a proposed "take or pay" power sales agreement with AIDEA, AEL&P will continue to purchase the project's power. The financial ability of AEL&P to perform under the power sales agreement will be confirmed prior to closing.
3. Demand on public facilities - Since the Authority contemplates no additions or modifications to the existing Snettisham facility, there will be no additional burdens placed on public facilities.
4. Provide/retain employment consistent with the size of investment - The Authority contemplates the development of an operating agreement with AEL&P. As operator, AEL&P intends on retaining four to five of APA's Snettisham craft employees as well as possibly some management personnel. Maintaining favorably low power utility rates will also have a positive effect on business employment in the region.
5. Economic and financial feasibility - Tax exempt financing of the Snettisham project is viewed as necessary to prevent rate shock. Since the Internal Revenue Code now prohibits the use of tax-exempt bonds to finance an existing facility it must be amended for the purchase of Snettisham. Legislation required for tax-exempt financing of this Project is now attached to the Congressional Budget Reconciliation Bill. A feasibility determination will be made based on interest rates and other factors that would affect the final deal structure.

Although yet to be fully evaluated, risks associated with State ownership of this facility appear to be fairly typical of those of any remote Alaskan hydroelectric facility

that has submarine cables and an exposed transmission line. In the process of acquiring this project the Authority will strive to minimize its risks through negotiations with AEL&P, the intended operator and purchaser of all the facility's electrical output. Establishment of sufficient reserves for replacements and insurance will significantly reduce the State's financial exposure as owner. Prior to purchasing this facility the Authority will perform a detailed physical facility evaluation and a comprehensive risk assessment. If this study determines that the Project's risks are too large or unmitigatable, the Authority will recommend not proceeding with acquisition.

6. Project to comply with applicable law - The records reflect that the project is in full compliance with all laws and regulations.

7. Bonds will not adversely affect other credit instruments of the State - The bonds will not be a general obligation of the State of Alaska. The State moral obligation will induce the market to assign a lower interest rate to the bond, while presenting a minimal risk to the state.

**HEB**

**526**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/2/96

DATE TURNED INTO OFFICE: 6 May 1996

The Finance Committee considered CS FOR HOUSE BILL NO. 526(FIN) am

Relating to the financing authority, programs, operations, and projects of the Alaska Industrial Development and Export Authority; efd.

REPORTED OUT OF  
SFC 5/06/96

and recommends:

- be replaced with 5 CS CS HB 526 (FIN)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical change
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Comm & Ec Development	5/3/96	Ø	

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCS CS HB526 (TRA)

Revision Date: \_\_\_\_\_ Department: Commerce and Economic Development  
 Title: Financing authority, programs and projects of AIDEA BRU: AIDEA  
 Component: AIDEA  
 Sponsor: House Labor & Commerce  
 Requestor: Senate Transportation COMPONENT SERIAL NO. \_\_\_\_\_ 1234

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ \_\_\_\_\_

POSITIONS	
FULL-TIME	
PART-TIME	
TEMPORARY	

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

Bonds will be sold to finance projects and will have no fiscal impact on the General Fund. Program changes will have no fiscal impact on the General Fund.

Prepared by: William R. Snell, Executive Director Phone: 907-269-3000  
 Division: AIDEA Date: May 3, 1996  
 Approved by Commissioner: William L. Hensley Date: 5/3/96  
 Agency: Commerce and Economic Development

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# A FAX

## Alaska State Legislature

Date: 6 May 1996

To: Legal Services

Fax #: 2029 Phone #: 2450

From: Sen. Finance Committee - Jerry

Phone #: 4935

Re: please incorporate attached amendments in to  
SCS CSHB 526 (TRA) for final FIN version. Many thanks.

2 amendments given by phone to Peggy - see attached amend #2

Following this page, please find 3 pages(s). If this does not reach you in full, please inform us ASAP.



# THANK YOU.

SENATE CS FOR CS FOR HOUSE BILL NO. 526(FIX)~~(FRAT)~~

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 5/2/96  
Referred: Finance

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the financing authority, programs, operations, and projects  
2 of the Alaska Industrial Development and Export Authority; providing an  
3 exemption from the procurement code for certain projects of the authority; and  
4 providing for an effective date."

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

6 \* Section 1. AS 36.30.850(b) is amended by adding a new paragraph to read:

7 (34) contracts of the Alaska Industrial Development and Export  
8 Authority made with the developer of an integrated transportation and port facility  
9 owned by the authority.

10 \* Sec. 2. AS 44.88 is amended by adding a new section to article 3 to read:

11 Sec. 44.88.088. PAYMENT OF DIVIDEND TO STATE. The authority shall  
12 adopt a policy for the payment of a portion of the unrestricted net income of the  
13 authority to the general fund as a dividend each fiscal year. The amount of the  
14 dividend for a fiscal year may not be less than 40 percent of the net income of the

1 authority for that fiscal year, unless that amount exceeds the total unrestricted net  
2 income of the authority for that year, in which case, the amount of the dividend equals  
3 the total unrestricted net income of the authority for that fiscal year. The dividend for  
4 a fiscal year shall be paid before the end of the immediately following fiscal year. For  
5 purposes of applying this section, income of the authority is "net income" or  
6 "unrestricted net income" based upon how the income is treated in the latest audited  
7 financial statement of the authority.

8 \* Sec. 3. AS 44.88.095(g) is amended to read:

9 (g) Before July 1, 1998, the authority may issue bonds in an amount  
10 greater than \$10,000,000 to assist in the financing of a development project under  
11 AS 44.88.172 - 44.88.177 only with legislative approval. Beginning July 1, 1998,  
12 and thereafter, without [WITHOUT] prior legislative approval, the authority may not  
13 issue bonds, except refunding bonds.

14 \* Sec. 4. AS 44.88.159(a) is amended to read:

15 (a) The interest rate on a loan participation purchased [FINANCED] from  
16 the proceeds of tax-exempt bonds or expected by the authority to be purchased  
17 [FINANCED] from the proceeds of tax-exempt bonds is equal to the cost of funds to  
18 the authority. In this subsection "cost of funds" means the true interest cost expressed  
19 as a rate on tax-exempt bonds of the authority plus an additional percentage as  
20 determined by the authority to represent the allocable expenses of operation, costs of  
21 issuance, and loan servicing.

22 \* Sec. 5. AS 44.88.159(b) is amended to read:

23 (b) The interest rate on a loan participation purchased [FINANCED] from  
24 the proceeds of taxable bonds or expected by the authority to be purchased  
25 [FINANCED] from the proceeds of taxable bonds is equal to the cost of funds to the  
26 authority. In this subsection "cost of funds" means the true interest cost expressed as  
27 a rate on taxable bonds, plus an additional percentage as determined by the authority  
28 to represent the allocable expenses of operation, costs of issuance, and loan servicing  
29 costs.

30 \* Sec. 6. AS 44.88.159(c) is amended to read:

31 (c) The interest rate on a loan participation purchased [FINANCED] directly

1 from the assets of the authority shall be determined under the regulations adopted by  
2 the authority under AS 44.88.085(g)(2)(C). However, the interest rate on a loan  
3 participation purchased from assets of the authority may not be less than the rate  
4 determined

5 (1) under (a) of this section if the project is of a type that could be  
6 funded with tax-exempt bonds; or

7 (2) under (b) of this section if the project is of a type that could not  
8 be funded with tax-exempt bonds.

9 \* Sec. 7. AS 44.88.205(b) is amended to read:

10 (b) To further ensure effective budgetary decision making by the legislature,  
11 the authority shall

12 (1) annually review the authority's assets to determine whether assets  
13 of the authority exceed an amount required to fulfill the purposes of the authority as  
14 defined in this chapter; in making its review, [THE MEMBERS OF] the authority shall  
15 determine whether, and to what extent, assets in excess of the amount required to  
16 fulfill the purposes of the authority during at least the next fiscal year are available  
17 without

18 (A) breaching any agreement entered into by the authority;

19 (B) materially impairing the operations or financial integrity of  
20 the authority; or

21 (C) materially affecting the ability of the authority to fulfill the  
22 authority's purposes set out in AS 44.88.070; and

23 (2) make available [PRESENT] to the legislature by January 10 of  
24 each year a complete accounting of all assets of the authority and a report of the  
25 review and determination made under (1) of this subsection; the accounting shall be  
26 audited by the auditor who conducts the audit required by AS 44.88.200 and must  
27 include a full description of all loan interest and principal payments and program  
28 receipts, including

29 (A) loan commitment fees received by or accrued to the  
30 authority during the preceding fiscal year; [,] and

31 (B) all income earned on assets of the authority during that

1 period.

2 \* Sec. 8. AS 44.88.500(a) is amended to read:

3 (a) [THE BUSINESS ASSISTANCE FUND IS ESTABLISHED IN THE  
4 AUTHORITY FROM MONEY IN THE AUTHORITY'S RESERVES DESIGNATED  
5 BY THE AUTHORITY FOR THE PURPOSE.] Subject to the requirements of  
6 AS 44.88.500 - 44.88.599, the authority may [USE MONEY IN THE FUND]

7 (1) [TO] guarantee new business assistance loans; and

8 (2) [TO] guarantee new business assistance loans made to refinance  
9 existing loans.

10 \* Sec. 9. AS 44.88.530 is amended to read:

11 Sec. 44.88.530. APPLICABILITY OF PROVISIONS. AS 44.88.535 -  
12 44.88.560 apply to

13 [(1)] new loan guarantees and refinancing guarantees under  
14 AS 44.88.500 [AS 44.88.500(a)(1); AND

15 (2) DEBT REFINANCING GUARANTEES UNDER  
16 AS 44.88.500(a)(2)].

17 \* Sec. 10. AS 44.88.535 is amended to read:

18 Sec. 44.88.535. CONDITIONS OF LOAN GUARANTEE. (a) The authority  
19 may guarantee a loan under AS 44.88.500 - 44.88.599 if the

20 (1) loan

21 (A) is commercially reasonable;

22 (B) contains amortization provisions satisfactory to the  
23 authority;

24 (C) is secured by adequate collateral; however, the authority  
25 may waive on a case-by-case basis the requirement of collateral for a loan  
26 guarantee of \$100,000 [\$75,000] or less for which the proposed loan  
27 amortization period does not exceed five years, but the ability to waive the  
28 requirement of this subparagraph or the grant of a waiver does not prevent the  
29 financial institution that holds the loan guaranteed by the authority from  
30 requiring reasonable collateral for the loan;

31 (2) net cash flow from the borrower provides adequate coverage for the

1 debt service on the loan;  
2 (3) term of the loan does not exceed 20 years;  
3 (4) loan is originated with and serviced by a state chartered or federally  
4 chartered financial institution;  
5 (5) portion of the loan not guaranteed by the authority is held by the  
6 originating financial institution or another [FINANCIAL] institution approved by the  
7 authority;

Amend #1  
Sen. Phillips  
moved orig. lang.  
w/o objection  
adopted

8 (6) proceeds of the loan will be used [IS MADE] to benefit a business  
9 conducted in the [WITH A MAJORITY INTEREST HELD BY] state [RESIDENTS];  
10 and

11 (7) loan guarantee provides a benefit to the borrower.  
12 (b) The authority may provide a guarantee [FROM THE FUND  
13 (1)] of up to 80 percent of a loan [OF \$50,000 OR LESS] that qualifies  
14 under AS 44.88.500 - 44.88.599. The [;

15 (2) FOR UP TO 80 PERCENT OF A LOAN OF MORE THAN  
16 \$50,000 THAT QUALIFIES UNDER AS 44.88.500 - 44.88.599; THE] ratio of the  
17 guarantee to the outstanding principal of the loan may not increase over the term of  
18 the loan.

Amend #3  
Sen. Donley  
moved deletion  
FAILED

19 ~~(e) The authority may [NOT] guarantee the payment of interest on the~~  
20 ~~guaranteed portion of a loan in the manner established by the authority by~~  
21 ~~regulation and for a period of time not to exceed 90 days.~~

22 \* Sec. 11. AS 44.88.540 is amended to read:  
23 Sec. 44.88.540. LIMITATIONS OF GUARANTEES [FROM THE FUND].  
24 The authority may not issue a total of more than [GUARANTEE]  
25 (1) [A TOTAL OF MORE THAN] \$50,000,000 of loan guarantees  
26 [LOANS];  
27 (2) [MORE THAN] \$25,000,000 of loan guarantees [LOANS] in  
28 which the amount of the loan guarantee exceeds \$500,000.

29 \* Sec. 12. AS 44.88.550(a) is amended to read:  
30 (a) The maximum interest rate that may be charged by a financial  
31 institution on a loan guaranteed by the authority is two and three-quarters percentage

1 points above the prime rate.

2 \* **Sec. 13.** AS 44.88.560 is amended to read:

3 Sec. 44.88.560. **POWERS OF THE AUTHORITY.** The authority may

4 (1) adopt regulations to implement AS 44.88.500 - 44.88.599;

5 (2) establish terms and conditions for loan guarantees and refinancing  
6 agreements subject to the requirements of AS 44.88.500 - 44.88.599;

7 (3) make and execute contracts and other instruments to implement  
8 AS 44.88.500 - 44.88.599;

9 (4) charge

10 (A) one percent of the amount guaranteed for the service it  
11 provides under AS 44.88.500 - 44.88.599; and

12 (B) any other reasonable fee that the authority may establish by  
13 regulation;

14 (5) acquire real or personal property by purchase, transfer, or  
15 foreclosure when the acquisition is necessary to protect the authority's [AN] interest  
16 in a loan or a loan guarantee [THE FUND];

17 (6) exercise any other power necessary to implement AS 44.88.500 -  
18 44.88.599; and

19 (7) to the extent the authority considers it to be in its best interest to  
20 do so, use money [IN THE BUSINESS ASSISTANCE FUND] to pay expenses  
21 relating to the liquidation of collateral securing loans guaranteed by the authority  
22 [BUSINESS ASSISTANCE FUND].

23 \* **Sec. 14.** AS 44.88.599(2) is amended to read:

24 (2) "prime rate" means the lowest United States money center prime  
25 rate of interest that is published in the Wall Street Journal.

26 \* **Sec. 15.** AS 44.88.900(3) is amended to read:

27 (3) "development project" has the meaning given to "project" in (9)(A)  
28 and (D) - (F) [, (D), AND (E)] of this section;

29 \* **Sec. 16.** AS 44.88.900(7) is repealed and reenacted to read:

30 (7) "loan participation" means the purchase of a portion of a loan from  
31 a financial institution if the financial institution has obtained a commitment from the

1 authority to purchase the portion of that loan before the financial institution has  
2 disbursed money as part of the loan to the borrower;

3 \* Sec. 17. AS 44.88.900(9) is amended to read:

4 (9) "project" means

5 (A) a plant or facility used or intended for use in connection  
6 with making, processing, preparing, transporting, or producing in any manner,  
7 goods, products, or substances of any kind or nature or in connection with  
8 developing or utilizing a natural resource, or extracting, smelting, transporting,  
9 converting, assembling, or producing in any manner, minerals, raw materials,  
10 chemicals, compounds, alloys, fibers, commodities and materials, products, or  
11 substances of any kind or nature;

12 (B) a plant or facility used or intended for use in connection  
13 with a business enterprise;

14 (C) commercial activity by a business [SMALL] enterprise;

15 (D) a plant or facility demonstrating technological advances of  
16 new methods and procedures and prototype commercial applications for the  
17 exploration, development, production, transportation, conversion and use of  
18 energy resources;

19 (E) infrastructure for a new tourism destination facility or for  
20 the expansion of a tourism destination facility;

21 (F) a plant or facility, other than a plant or facility described in  
22 (D) of this paragraph, for the generation, transmission, development,  
23 transportation, conversion, or use of energy resources;

24 \* Sec. 18. Section 2(a), ch. 27, SLA 1993 is amended to read:

25 Sec. 2. (a) The Alaska Industrial Development and Export Authority may  
26 issue bonds to finance the acquisition, design, and construction of a port facility and  
27 related loading and conveyor equipment related to the development and operation of  
28 a bulk commodity loading and shipping terminal. The terminal may be located  
29 anywhere within Cook Inlet. The facility will be [DIRECT REDUCTION IRON  
30 ORE PROCESSING FACILITY FOR USE BY THE MIDREX CORPORATION, TO  
31 BE LOCATED AT POINT MACKENZIE AND] owned by the authority. The

Amend #4  
Sen. Sharp  
moved delete  
Sec. 18  
ADOPTED

1 principal amount of the bonds may not exceed \$50,000,000.]

2 \* Sec. 19. Section 4, ch. 162, SLA 1988, as amended by sec. 4, ch. 25, SLA 1991, and  
3 sec. 4, ch. 27, SLA 1993, is amended to read:

4 Sec. 4. AS 44.88.500 - 44.88.599 are repealed July 1, 1998 [1996].

5 \* Sec. 20. AS 44.88.542, 44.88.599(1), and 44.88.900(14) are repealed.

6 \* Sec. 21. Section 1, ch. 27, SLA 1993, is repealed.

7 \* Sec. 22. TRANSITION. (a) On the effective date of this Act, assets of the business  
8 assistance fund (AS 44.88.500(a)) shall be transferred to the Alaska Industrial Development  
9 and Export Authority revolving fund (AS 44.88.060).

10 (b) The first dividend payment to the state under AS 44.88.088, enacted by sec. 2 of  
11 this Act, is due during fiscal year 1997 based upon unrestricted net income of the Alaska  
12 Industrial Development and Export Authority for fiscal year 1996.

13 \* Sec. 23. (a) The Alaska Industrial Development and Export Authority (AIDEA) may  
14 issue bonds to finance the expansion, improvement, and modification of the existing port  
15 facilities owned by AIDEA with respect to the DeLong Mountain transportation system and  
16 to finance the construction of new facilities to be owned by AIDEA related to the DeLong  
17 Mountain transportation system, or may finance these projects by other means available to  
18 AIDEA. The principal amount of the bonds and other financing provided by AIDEA may not  
19 exceed \$85,000,000.

20 (b) Before bonds or notes authorized under (a) of this section may be issued, the  
21 Alaska Industrial Development and Export Authority shall comply with AS 44.88.173 and  
22 shall incorporate into the final finance plan and agreement for the project the following terms  
23 and conditions:

24 (1) Cominco, Ltd., is required to agree in writing that Cominco, Ltd., will pay  
25 for all or a portion of the operation and maintenance of facilities constructed, expanded,  
26 improved, or modified as part of the project based on the use Cominco Alaska makes of the  
27 facilities compared to the use made by others;

28 (2) a toll schedule, which may include adjustments related to the price of zinc,  
29 is established for use of facilities constructed, expanded, improved, or modified as part of the  
30 project that

31 (A) ensures full repayment of and a reasonable return on the state's

1 entire investment in the project;

2 (B) ensures an additional return on AIDEA's investment made under  
3 this section that is commensurate with the return earned on the original DeLong  
4 Mountain Transportation System project and the risks assumed by AIDEA;

5 (C) guarantees equitable access to the facilities by all users and  
6 potential users, including access to private property and access for travel necessary and  
7 related to resource exploration and development for which valid permits have been  
8 obtained and travel in support of resource exploration and development;

9 (3) reasonable access to the port and road is guaranteed to all users and  
10 potential users.

11 (c) Subsection (a) of this section constitutes the legislative approval required by  
12 AS 44.88.095(g).

13 \* Sec. 24. (a) Upon approval of the Alaska Industrial Development and Export Authority  
14 (AIDEA), AIDEA may acquire the Snettisham hydroelectric project and related assets from  
15 the Alaska Power Administration.

16 (b) AIDEA may issue bonds to finance the acquisition of the Snettisham hydroelectric  
17 project and related assets, or may finance the acquisition by other means available to AIDEA.  
18 The principal amount of the bonds and other financing provided by AIDEA to finance the  
19 acquisition of the Snettisham hydroelectric project may not exceed \$100,000,000.

20 (c) To secure bonds issued under (b) of this section, AIDEA may establish a capital  
21 reserve fund with respect to those bonds under AS 44.88.105. If AIDEA establishes a capital  
22 reserve fund as provided in this subsection, the executive director of AIDEA shall annually,  
23 no later than January 2 of each year, certify in writing to the governor and the legislature the  
24 amount, if any, required to restore the capital reserve fund to the capital reserve fund  
25 requirement as defined in AS 44.88.105(h). The legislature may appropriate to AIDEA the  
26 amount so certified by the executive director of AIDEA. AIDEA shall deposit the amounts  
27 appropriated under this subsection during a fiscal year in the capital reserve fund. Nothing  
28 in this section creates a debt or liability of the state.

29 (d) Subsection (b) of this section grants the legislative approval required by  
30 AS 44.88.095(g).

31 \* Sec. 25. This Act takes effect immediately under AS 01.10.070(c).

moved Sen. Sharp  
(delete sec.3)  
w/o objection  
adopted

AMENDMENT #2

OFFERED IN THE SENATE  
FINANCE COMMITTEE

TO: SCS CSHB526 (TRA)

Page 1, following line 5:

Insert a new bill section to read:

**\*\*Section 1. FINDINGS, POLICY, AND INTENT.** It is the policy and intent of the legislature that the financial integrity of the Alaska Industrial Development and Export Authority remain secure so the authority can continue to fulfill its vital economic development mission for the state. The legislature finds that this bill fulfills this intent."

Renumber the following bill sections accordingly.

Page 1, following line 9:

Insert a new bill section to read:

~~["\*\*Sec. 3 AS 44.88.080 is amended by adding a new paragraph to read:~~

~~(26) to conduct studies and establish economic development demonstration~~

~~projects and programs in furtherance of the legislative finding and policy set out in~~

~~AS 44.88.010"~~ ]

delete

Renumber the following bill sections accordingly.

Page 1, line 10-14:

Delete all material

Page 2, line 1-7:

Delete all material

Page 1, following line 9:

Insert a new bill section to read:

**\*\*Sec 4.** AS 44.88 is amended by adding a new section to article 3 to read:

Sec. 44.88.088. PAYMENT OF DIVIDEND TO STATE. (a) The authority shall adopt a policy for payment of a dividend to the state each fiscal year. The amount of the dividend for a fiscal year may not be less than 25 percent nor more than 50 percent of the net income of the authority for the base fiscal year. In no event, however, shall the dividend for a fiscal year exceed the total unrestricted net income of the authority for the base fiscal year. The dividend for a fiscal year shall be made available by the authority before the end of that fiscal year. The authority shall notify the commissioner of revenue when the dividend for a fiscal year is available for appropriation.

(b) In this section,

(1) "base fiscal year" means the fiscal year ending two years before the end of the fiscal year in which the payment is made;

(2) "net income" means the authority's net income as set out in the audited financial statements of the authority for the base fiscal year;

(3) "unrestricted net income" means the authority's unrestricted net income as set out in the audited financial statements of the authority for the base fiscal year."

Renumber the following bill sections accordingly

Page 8, lines 10-12:

Delete all material

Page 8, following line 9:

Insert a new subsection to read:

"(b) The first dividend payment to the state under AS 44.88.088, enacted by sec. 4 of this Act, shall be made available during fiscal year 1997 based upon net income and unrestricted net income of the Alaska Industrial Development and Export Authority for fiscal year 1995."

AMENDMENT # 3

*Shm*  
not offered

OFFERED IN THE SENATE  
FINANCE COMMITTEE

TO: SCS CSHB 526 (TRA)

PAGE 7, LINES 24-31

DELETE ALL MATERIAL

PAGE 8, LINE 1

DELETE ALL MATERIAL

RENUMBER FOLLOWING SECTIONS ACCORDINGLY

PAGE 8, LINE 6

DELETE "SECTION 1"

INSERT "SECTIONS 1 AND 2" BEFORE ", ch. 27"

5032211560

F-702 T-271 P-001

MAY 06 '96 10:25

**PFM****PUBLIC FINANCIAL MANAGEMENT, INC.**

Financial and Investment Advisors

1000 SW Broadway, Suite 1900  
Portland, Oregon 97208-3087  
503-223-3363 (fax) 503-223-7000

May 6, 1996

Valorie Walker  
Alaska Industrial Development and Export Authority  
480 W. Tudor Road  
Anchorage, Alaska 99503

Via Fax 907-269-3044

Dear Valorie:

I have reviewed the proposed amendment to AS 44.88.088 which provides a statutory framework for an annual dividend to the State of Alaska's General Fund from AIDEA's "net revenues". While any removal of revenues from AIDEA degrades the security of future payment to bondholders, the framework which is established in this amendment is far superior to an approach which would leave unspecified future dividends up to the annual budget process. The proposed amendment deals with several important aspects which will be regarded as strong points in the credit markets. These important aspects are:

1. The dividend approach is in statute. This is much better than having an undetermined yearly process.
2. The amendment leaves control with the Authority's Board. This will be considered important as it maintains control within the business process rather than the political process.
3. The amendment establishes a maximum dividend. Much of the concern of the credit markets is that too much will be taken too quickly. The "maximum" dividend controls the process and makes it more predictable.
4. Lastly, the amounts suggested in the amendment are reasonable.

Again, the new language is much better than a yearly budget process and should help soothe concerns that have been raised by the credit markets.

If you have any questions regarding my comments, please feel free to call.

For Public Financial Management, Inc. / Gardiner & Clancy, LLC

  
Patrick H. Clancy

Atlanta Austin Boston Fort Myers Honolulu Memphis Minneapolis New York Newport Beach Orlando Philadelphia Portland San Francisco

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Goldman, Sachs & Co. | 85 Broad Street | New York, New York 10004  
Tel: 212-902-6417

Francis J. Ingrassia  
Partner

**Goldman  
Sachs**

---

May 6, 1996

Mr. William R. Snell  
Executive Director  
Alaska Industrial Development and Export Authority  
450 West Tudor  
Anchorage, AK 99503-6690

Dear Riley:

This letter responds to your question regarding the proposed legislative dividends. As you know, any appropriation of AIDEA equity by the State raises questions on Wall Street about whether AIDEA's financial well-being will become subject to the political process rather than economic and credit fundamentals. In that political decisions are inherently unpredictable, credits that have such political risk tend to get lower credit ratings and reduced investor following, resulting in higher interest rates and reduced market access.

Allowing the AIDEA Board discretion within the percentages (25 to 50) proposed by your amendment introduces a safeguard against financially harmful dividends. I believe that this proposal will be much better perceived on Wall Street than the continuation of the annual legislative debates that we have seen over the last few years. The proposed solution appears to be the best possible under the circumstances. By putting the dividend formula into a statute, much of the unpredictability of future dividends is removed from the process.

If you have any questions or comments, please call me.

Sincerely,



Francis J. Ingrassia

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 4/16/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 5/2/96

The Transportation Committee considered CS FOR HOUSE BILL NO. 526(FIN) am

Relating to the financing authority, programs, operations, and projects of the Alaska Industrial Development and Export Authority; efd.

and recommends:

- be replaced with SCS CS HB 526 (TRA)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Al Calder</i>	<input checked="" type="checkbox"/>	<i>Deonna...</i>			
<i>Christa Taylor</i>	<input checked="" type="checkbox"/>	<i>Stacy Green</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Steve Kuis</i>	<input checked="" type="checkbox"/>	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>Cominerce - Econ Develop</i>	<i>3/8/96</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

Bill No. 1  
 Bill Version: CSHB 526(L&C)  
 (H) Publish Date: 3/18/96

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Department: Commerce and Economic Development  
 Title: Financing authority, programs and projects of AIDEA BRU: AIDEA  
 Component: AIDEA  
 Sponsor: House Labor & Commerce  
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. \_\_\_\_\_ 1234

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS					
FULL-TIME					
PART-TIME					
TEMPORARY					

**ANALYSIS:** (Attach a separate page if necessary)  
 Bonds will be sold to finance projects and will have no fiscal impact on the General Fund. Program changes will have no fiscal impact on the General Fund.

Prepared by: William R. Snell, Executive Director Phone: 907-561-8050  
 Division: AIDEA Date: March 8, 1996  
 Approved by Commissioner: William L. Hensley Date: 3-8-96  
 Agency: Commerce and Economic Development

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**COMMITTEE COPY**

**HB**

**528**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 18, 1996

FURTHER REFERRALS:

Date of Committee Action: 4/12/96

The FINANCE Committee considered:

HB 528

HOUSE BILL NO. 528

NURS.HOME MORATORIUM/CERTIFICATES OF NEED

"An Act relating to applications for certificates of need and licensing of nursing homes; amending the standard of review for certificates of need for health care facilities in the state; establishing a moratorium with respect to new applications by prohibiting the issuance of a certificate of need or a license for additional nursing home capacity in the state until July 1, 1998; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 528 (Fin)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) DHSS 3/18/96

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Richard Foster</i>	Foster	X			
<i>Mark Hanley</i>	Hanley	X			
<i>Ed Mulder</i>	Mulder	X			
<i>Terry Martin</i>	Martin	X			
<i>Kate Parnell</i>	Parnell	X			
<i>Vic Kohring</i>	Kohring	X			
<i>Ben Grosswendorf</i>	Grosswendorf				X
<i>Trillee Davarre</i>	Davarre	X			
<i>Pete Brown</i>	Brown	X			
<i>Kelly Kelly</i>	Kelly	X			
<i>Gene Theriault</i>	Theriault	X			

CHAIR'S SIGNATURE *Mark Hanley* *Richard Foster*  
 Hanley Foster

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CS HB 528 (HESS)

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Relating to applications of certificate of need BRU: Medical Assistance  
and licensing of nursing homes; Component: Medicaid Services  
 Sponsor: House Finance COMPONENT SERIAL NO. 2077  
 Requestor: House Finance See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES ( )						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill does not directly reduce the Medical Assistance budget. It is aimed at avoiding future costs which will be incurred by the Medical Assistance program if a 2 year CON moratorium is not implemented and the industry builds the planned projects. CON Applications, Letters of Intent (LIO), or Strategic Plans have been received from 8 facilities interested in adding a total of 147 new beds in the next 3 years. Failure to pass this moratorium and the initiation of construction will result in additional incremental budget funding requests to meet the new costs associated with those beds totaling \$58,758,107 over the five fiscal years.

	FY97	FY98	FY99	FY00	FY01	FY02
Medical Assistance	0	(3,599)	(8,433)	(14,407)	(14,903)	(15,415)

Half of these costs are paid by federal funds and the other half by general fund match. Operating costs could continue to increase substantially after the first two years. Failure to avoid these new beds could have a deleterious effect on home and community-based services which enable elderly Alaskans to avoid entirely or postpone nursing home placement.

Prepared by: Randy Super  
 Division: Medical Assistance  
 Approved by Com: Karen Petrá, Commissioner  
 Agency: Department of Health & Social Services

Phone: 465-5833  
 Date: 03/18/96

Date: 3/26/96

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9-LS1731G  
Lauterbach  
4/12/93

**CS FOR HOUSE BILL NO. 528(FIN)**

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

**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to applications for certificates of need and licensing of nursing  
2 homes; establishing a moratorium with respect to acceptance of new applications  
3 for a certificate of need or for a license for additional nursing home capacity in  
4 the state until May 1, 1998; establishing a working group to study and issue a  
5 report about long-term care; and providing for an effective date."

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

7 \* Section 1. FINDINGS. The legislature finds that

8 (1) many nursing home residents would benefit from care that is less intensive  
9 and less costly than nursing home care through assisted living facilities or through home care  
10 agencies;

11 (2) this state has only recently begun to develop a system for providing long-  
12 term care for seniors needing care through home care or assisted living facilities so that the  
13 long-term care system is not in balance at the present time;

1 (3) with the unnecessary focus on nursing homes, the long-term care system  
2 will remain out of balance until community-based services can be developed;

3 (4) a moratorium on the addition of nursing home beds will encourage the  
4 development of home and community-based services, and direct the state's resources toward  
5 the services that can best meet the needs of the recipients; and

6 (5) a moratorium on the addition of nursing home beds will facilitate actions  
7 to provide a more balanced system of care, more appropriate placement of seniors, and  
8 additional client choice, and to avoid new long-term care costs.

9 \* Sec. 2. MORATORIUM FOR CERTIFICATE OF NEED. (a) Notwithstanding  
10 AS 18.07, the Department of Health and Social Services may not accept an application for a  
11 certificate of need under AS 18.07, and the department may not grant a certificate of need  
12 based on an application filed before the effective date of this Act, except as provided in (b)  
13 of this section, for

14 (1) construction of a health care facility that includes nursing home beds  
15 requiring licensure under AS 18.20.020; or

16 (2) conversion of a building or part of a building to include nursing home beds.

17 (b) The Department of Health and Social Services shall consider the findings in sec. 1  
18 of this Act when reviewing an application under AS 18.07 that was pending on the effective  
19 date of this Act for the addition of nursing home beds or the conversion of existing beds to  
20 nursing home beds. The department may grant a pending application only when granting it  
21 would be consistent with the policy underlying the findings in sec. 1 of this Act.

22 (c) Notwithstanding AS 18.20, the department may not issue a license for

23 (1) construction of a health care facility that includes new nursing home beds;

24 or

25 (2) additional new nursing home beds in a health care facility.

26 (d) In this section, "nursing home bed" means a bed not used for acute care in which  
27 nursing care and related medical services are provided over a period of 24 hours each day to  
28 individuals admitted because of illness, disease, or physical infirmity; the term "nursing home  
29 bed" does not include acute care beds converted to skilled nursing home beds used for  
30 transitional short-term care needs.

31 \* Sec. 3. WORKING GROUP; REPORT. (a) There is established a six-member working

1 group to analyze issues regarding long-term care services in the state. The members of the  
2 group are

3 (1) two individuals appointed by the governor who are involved in providing  
4 long-term care services, one of whom is a licensed nursing home administrator who operates  
5 a community nursing home in this state;

6 (2) two individuals appointed by the governor who are receiving long-term care  
7 services, at least one of whom must be at least 60 years of age;

8 (3) the commissioner of administration, or the commissioner's designee; and

9 (4) the commissioner of health and social services, or the commissioner's  
10 designee.

11 (b) The working group established under this section may select a presiding officer  
12 from among its members.

13 (c) After gathering information through methods considered appropriate by the group,  
14 the working group established under this section shall prepare a report that includes the  
15 following:

16 (1) a description of the current status and costs of the state's system for long-  
17 term care services;

18 (2) the projected number of state residents who will be needing long-term care  
19 services through the year 2000, the year 2005, the year 2010, and the year 2015;

20 (3) the projected costs to the state, based on the projection of needs under (2)  
21 of this subsection, if no changes are made to the state's present system of long-term care  
22 services;

23 (4) an estimated number of state residents who are currently receiving care in  
24 nursing facilities that could more appropriately be receiving home- and community-based care  
25 outside of nursing facilities;

26 (5) a description of the alternative methods available to provide nursing care  
27 for state residents and the relative cost to the state for these methods; and

28 (6) recommendations for principles that should be used to guide the  
29 development of the state's long-term care system, including principles that should guide the  
30 certificate-of-need process under AS 18.07.

31 (d) The working group shall deliver its report to the governor by the first day of the

1 First Regular Session of the Twentieth Alaska State Legislature and notify the legislature that  
2 the report is available.

3 \* Sec. 4. Section 3 of this Act is repealed on the first day of the First Regular Session of  
4 the Twentieth Alaska State Legislature.

5 \* Sec. 5. Sections 1 and 2 of this Act are repealed May 1, 1998.

6 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

## Certificate of Need Review Criteria

- (1) The relationship of the health services being reviewed to the applicable health systems plan and annual implementation plan adopted pursuant to section 1513(b) (2) and (3), respectively, of the Act.
- (2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.
- (3)
  - (i) The need that the population served or to be served has for the services proposed to be offered or expanded, and the extent to which low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups are likely to have access to those services.
  - (ii) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the need that the population that is presently served has for the service, the extent to which that need will be met adequately by the proposed relocation or by alternative arrangement, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups to obtain needed health care.
- (4) The availability of less costly or more effective alternative methods of providing the services to be offered, expanded, reduced, relocated or eliminated.
- (5) The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health services by the person proposing the new institutional health services.
- (6) The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.
- (7) The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.
- (8) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.
- (9) Special needs and circumstances of those entities which provide a substantial portion of their services or resources or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health services areas. Such entities may include medical and other health professional schools, multidisciplinary clinics and specialty centers.

HB 528  
Attachment 1  
4/12/96/P

- (10) The special needs and circumstances of Health Maintenance Organizations for which assistance may be provided under Title XIII of the Social Security Act. Such needs and circumstances shall be limited to:
- (i) The needs of enrolled members and reasonably anticipated new members of the HMO or proposed HMO for the new institutional health services proposed to be provided by the organization.
  - (ii) The availability of the new health services from non-HMO providers or other HMO's in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO or proposed HMO. In assessing the availability of these health services from these providers, the agency shall consider only whether the services from these providers:
    - (A) Would be available under a contract of at least five years duration;
    - (B) Would be available and conveniently accessible through physicians and other health professionals associated with the HMO (For example - whether physicians associated with the HMO have or will have full staff privileges at a non-HMO hospital);
    - (C) Would cost no more than if the services were provided by the HMO or proposed HMO; and
    - (D) Would be available in a manner which is administratively feasible to the HMO or proposed HMO.
  - (iii) Any other factors that the State Agency may propose and the Secretary may, in accordance with paragraph (c) of this section, find to be consistent with the purpose of Title XIII of the Act.
- (11) The special needs and circumstances of biometrical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.
- (12) In the case of a construction project -
- (i) The costs and methods of the proposed construction, including the costs and methods of energy provision, and
  - (ii) The probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.
- (13) The contribution of the proposed new institutional health service in meeting the health related needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services (for example, low income persons, racial and ethnic minorities, women, and handicapped persons), particularly those needs identified in the applicable health systems plan and annual implementation plan as deserving of priority.
- (14) The special circumstances of health care facilities and HMO's with respect to the need for conserving energy.

9-LS1731\F ✓  
Lauterbach  
4/11/96

**CS FOR HOUSE BILL NO. 528( )**

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

**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): HOUSE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to applications for certificates of need and licensing of nursing  
2 homes; temporarily amending the standard of review for applications for  
3 certificates of need for nursing home beds; prohibiting the issuance of a license  
4 for additional nursing home capacity in the state until July 1, 1997; establishing  
5 a planning group to study and issue a plan about long-term care; and providing  
6 for an effective date."

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

8 \* Section 1. FINDINGS. The legislature finds that

9 (1) many nursing home residents would benefit from care that is less intensive  
10 and less costly than nursing home care through assisted living facilities or through home care  
11 agencies;

12 (2) this state has only recently begun to develop a system for providing long-  
13 term care for seniors needing care through home care or assisted living facilities so that the

1 long-term care system is not in balance at the present time;

2 (3) with the unnecessary focus on nursing homes, the long-term care system  
3 will remain out of balance until community-based services can be developed;

4 (4) a moratorium on the addition of nursing home beds will encourage the  
5 development of home and community-based services, and direct the state's resources toward  
6 the services that can best meet the needs of the recipients; and

7 (5) a moratorium on the addition of nursing home beds will facilitate actions  
8 to provide a more balanced system of care, more appropriate placement of seniors, and  
9 additional client choice, and to avoid new long-term care costs.

10 \* Sec. 2. MORATORIUM FOR CERTIFICATE OF NEED. (a) Notwithstanding  
11 AS 18.07, the Department of Health and Social Services may not grant a certificate of need,  
12 except as provided in (b) of this section, for

13 (1) construction of a health care facility that includes nursing home beds  
14 requiring licensure under AS 18.20.020; or

15 (2) conversion of a building or part of a building to include nursing home beds.

16 (b) The Department of Health and Social Services shall consider the findings in sec. 1  
17 of this Act when reviewing an application under AS 18.07 for the addition of nursing home  
18 beds or the conversion of existing beds to nursing home beds. The department may grant an  
19 application only when granting it would be consistent with the policy underlying the findings  
20 in sec. 1 of this Act.

21 (c) Notwithstanding AS 18.20, the department may not issue a license for

22 (1) construction of a health care facility that includes new nursing home beds;

23 or

24 (2) additional new nursing home beds in a health care facility.

25 (d) In this section, "nursing home bed" means a bed not used for acute care in which  
26 nursing care and related medical services are provided over a period of 24 hours each day to  
27 individuals admitted because of illness, disease, or physical infirmity; the term "nursing home  
28 bed" does not include acute care beds converted to skilled nursing home beds used for  
29 transitional short-term care needs.

30 \* Sec. 3. PLANNING GROUP; REPORT. (a) There is established a six-member planning  
31 group to analyze issues and prepare a plan regarding long-term care services in the state. The

1 members of the group are

2 (1) two individuals appointed by the governor who are involved in providing  
3 long-term care services, one of whom must be an administrator of a licensed community-  
4 owned or nonprofit nursing home;

5 (2) two individuals appointed by the governor who are receiving long-term care  
6 services, at least one of whom must be at least 60 years of age;

7 (3) the commissioner of administration, or the commissioner's designee; and

8 (4) the commissioner of health and social services, or the commissioner's  
9 designee.

10 (b) The planning group established under this section may select a presiding officer  
11 from among its members.

12 (c) After gathering information through methods considered appropriate by the group,  
13 the planning group established under this section shall prepare a plan that includes the  
14 following:

15 (1) a description of the current status and costs of the state's system for long-  
16 term care services;

17 (2) the projected number of state residents who will be needing long-term care  
18 services through the year 2000, the year 2005, the year 2010, and the year 2015;

19 (3) the projected costs to the state, based on the projection of needs under (2)  
20 of this subsection, if no changes are made to the state's present system of long-term care  
21 services;

22 (4) an estimated number of state residents who are currently receiving care in  
23 nursing facilities that could more appropriately be receiving home- and community-based care  
24 outside of nursing facilities;

25 (5) a description of the alternative methods available to provide nursing care  
26 for state residents and the relative cost to the state for these methods; and

27 (6) recommendations for principles that should be used to guide the  
28 development of the state's long-term care system, including principles that should guide the  
29 certificate-of-need process under AS 18.07.

30 (d) The planning group shall deliver its plan to the governor by the first day of the  
31 First Regular Session of the Twentieth Alaska State Legislature and notify the legislature that

- 1 the plan is available.
- 2 \* Sec. 4. Section 3 of this Act is repealed on the first day of the First Regular Session of
- 3 the Twentieth Alaska State Legislature.
- 4 \* Sec. 5. Sections 1 and 2 of this Act are repealed July 1, 1997.
- 5 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

called  
245

9-LS17311C  
7/12/96  
Adopted  
as  
Amended

**CS FOR HOUSE BILL NO. 528(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

Offered: 3/18/96  
Referred: Finance

Sponsor(s): HOUSE FINANCE COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to applications for certificates of need and licensing of nursing  
2 homes; amending the standard of review for certificates of need for health care  
3 facilities in the state; establishing a moratorium with respect to new applications  
4 by prohibiting the issuance of a certificate of need or a license for additional  
5 nursing home capacity in the state until July 1, 1997; establishing a working  
6 group to study and issue a report about long-term care; and providing for an  
7 effective date."

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

9 \*Section 1. FINDINGS. The legislature finds that  
10 ~~(1) the current availability of nursing home beds exceeds the actual need for~~  
11 ~~nursing home beds in the state;~~  
12 ~~(2) since 1989, based on national statistics, this state has had one of the lowest~~  
13 ~~statewide occupancy rates for nursing homes in the nation, with a 77.5 percent occupancy rate~~

1 based on an application filed before the effective date of this Act, except as provided in (b)  
2 of this section, for

3 (1) construction of a health care facility that includes nursing home beds  
4 requiring licensure under AS 18.20.020; or

5 (2) conversion of a building or part of a building to include nursing home beds.

6 (b) The Department of Health and Social Services shall consider the findings in sec. 1  
7 of this Act when reviewing an application under AS 18.07 that was pending on the effective  
8 date of this Act for the addition of nursing home beds or the conversion of existing beds to  
9 nursing home beds. The department may grant a pending application only when granting it  
10 would be consistent with the policy underlying the findings in sec. 1 of this Act.

11 (c) Notwithstanding AS 18.20, the department may not issue a license for

12 (1) construction of a health care facility that includes new nursing home beds;

13 or

14 (2) additional new nursing home beds in a health care facility.

15 (d) In this section, "nursing home bed" means a bed not used for acute care in which  
16 nursing care and related medical services are provided over a period of 24 hours each day to  
17 individuals admitted because of illness, disease, or physical infirmity; the term "nursing home  
18 bed" does not include acute care beds converted to skilled nursing home beds used for  
19 transitional short-term care needs.

20 \* Sec. 4. WORKING GROUP; REPORT. (a) There is established a six-member working  
21 group to analyze issues regarding long-term care services in the state. The members of the  
22 group are

23 (1) two individuals appointed by the governor who are involved in providing  
24 long-term care services; *one of whom is a licensed nursing home*

25 (2) two individuals appointed by the governor who are receiving long-term care  
26 services, at least one of whom must be at least 60 years of age; *Administrator who operates a Community  
nursing home in AK*

27 (3) the commissioner of administration, or the commissioner's designee; and

28 (4) the commissioner of health and social services, or the commissioner's  
29 designee.

30 (b) The working group established under this section may select a presiding officer  
31 from among its members.

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

called

245

9-LS17311C

4/12/96

Adopted

as

Amended

**CS FOR HOUSE BILL NO. 528(HES)**

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

**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered: 3/18/96**

**Referred: Finance**

**Sponsor(s): HOUSE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to applications for certificates of need and licensing of nursing  
2 homes; amending the standard of review for certificates of need for health care  
3 facilities in the state; establishing a moratorium with respect to new applications  
4 by prohibiting the issuance of a certificate of need or a license for additional  
5 nursing home capacity in the state until July 1, 1997; establishing a working  
6 group to study and issue a report about long-term care; and providing for an  
7 effective date."

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

9 **\*Section 1. FINDINGS. The legislature finds that**

10 ~~(1) the current availability of nursing home beds exceeds the actual need for~~  
11 ~~nursing home beds in the state;~~

12 ~~(2) since 1989, based on national statistics, this state has had one of the lowest~~  
13 ~~statewide occupancy rates for nursing homes in the nation, with a 77.5 percent occupancy rate~~

1 in 1992 being the second lowest in the nation; in 1995, statistics show that the statewide  
2 nursing home occupancy rate in the state was only 85 percent, which is still low by national  
3 standards;

4 (3) many nursing home residents would benefit from care that is less intensive  
5 and less costly than nursing home care through assisted living facilities or through home care  
6 agencies;

7 (4) this state has only recently begun to develop a system for providing long-  
8 term care for seniors needing care through home care or assisted living facilities so that the  
9 long-term care system is not in balance at the present time;

10 (5) with the unnecessary focus on nursing homes, the long-term care system  
11 will remain out of balance until community-based services can be developed;

12 (6) a moratorium on the addition of nursing home beds will encourage the  
13 development of home and community-based services, and direct the state's resources toward  
14 the services that can best meet the needs of the recipients; and

15 (7) a moratorium on the addition of nursing home beds will facilitate actions  
16 to provide a more balanced system of care, more appropriate placement of seniors, and  
17 additional client choice, and to avoid new long-term care costs.

18 \* ~~Sec. 2. AS 18.07.041 is amended to read:~~

19 Sec. 18.07.041. STANDARD OF REVIEW FOR APPLICATIONS FOR  
20 CERTIFICATES OF NEED. The office shall grant a sponsor a certificate of need or  
21 modify a certificate of need if the department finds a lack of available [THE  
22 AVAILABILITY AND QUALITY OF EXISTING] health care resources in the state.  
23 The office shall consider the most cost-effective means of providing services and  
24 consider the state and federal financing available for those services before  
25 determining that a certificate will be granted [OR THE ACCESSIBILITY TO  
26 THOSE RESOURCES IS LESS THAN THE CURRENT OR PROJECTED  
27 REQUIREMENT FOR HEALTH SERVICES REQUIRED TO MAINTAIN THE  
28 ~~GOOD HEALTH OF CITIZENS OF THIS STATE].~~

29 \* Sec. 3. MORATORIUM FOR CERTIFICATE OF NEED. (a) Notwithstanding  
30 AS 18.07, the Department of Health and Social Services may not accept an application for a  
31 certificate of need under AS 18.07, and the department may not grant a certificate of need

1 based on an application filed before the effective date of this Act, except as provided in (b)  
2 of this section, for

3 (1) construction of a health care facility that includes nursing home beds  
4 requiring licensure under AS 18.20.020; or

5 (2) conversion of a building or part of a building to include nursing home beds.

6 (b) The Department of Health and Social Services shall consider the findings in sec. 1  
7 of this Act when reviewing an application under AS 18.07 that was pending on the effective  
8 date of this Act for the addition of nursing home beds or the conversion of existing beds to  
9 nursing home beds. The department may grant a pending application only when granting it  
10 would be consistent with the policy underlying the findings in sec. 1 of this Act.

11 (c) Notwithstanding AS 18.20, the department may not issue a license for

12 (1) construction of a health care facility that includes new nursing home beds;

13 or

14 (2) additional new nursing home beds in a health care facility.

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16 nursing care and related medical services are provided over a period of 24 hours each day to  
17 individuals admitted because of illness, disease, or physical infirmity; the term "nursing home  
18 bed" does not include acute care beds converted to skilled nursing home beds used for  
19 transitional short-term care needs.

20 \* Sec. 4. WORKING GROUP; REPORT. (a) There is established a six-member working  
21 group to analyze issues regarding long-term care services in the state. The members of the  
22 group are

23 (1) two individuals appointed by the governor who are involved in providing  
24 long-term care services; *one of whom is a licensed nursing home*

25 (2) two individuals appointed by the governor who are receiving long-term care  
26 services, at least one of whom must be at least 60 years of age; *Administrator who operates a community*  
*nursing home in AK*

27 (3) the commissioner of administration, or the commissioner's designee; and

28 (4) the commissioner of health and social services, or the commissioner's

29 designee.

30 (b) The working group established under this section may select a presiding officer  
31 from among its members.

1 (c) After gathering information through methods considered appropriate by the group,  
2 the working group established under this section shall prepare a report that includes the  
3 following:

4 (1) a description of the current status and costs of the state's system for long-  
5 term care services;

6 (2) the projected number of state residents who will be needing long-term care  
7 services through the year 2000, the year 2005, the year 2010, and the year 2015;

8 (3) the projected costs to the state, based on the projection of needs under (2)  
9 of this subsection, if no changes are made to the state's present system of long-term care  
10 services;

11 (4) an estimated number of state residents who are currently receiving care in  
12 nursing facilities that could more appropriately be receiving home- and community-based care  
13 outside of nursing facilities;

14 (5) a description of the alternative methods available to provide nursing care  
15 for state residents and the relative cost to the state for these methods; and

16 (6) recommendations for principles that should be used to guide the  
17 development of the state's long-term care system, including principles that should guide the  
18 certificate-of-need process under AS 18.07.

19 (d) The working group shall deliver its report to the governor by the first day of the  
20 ~~First~~ Regular Session of the Twentieth Alaska State Legislature and notify the legislature that  
21 the report is available.

22 \* Sec. 5. Section 4 of this Act is repealed on the first day of the First Regular Session of  
23 the Twentieth Alaska State Legislature.

24 \* Sec. 6. Sections 1 and 3 of this Act are repealed <sup>may</sup> July 1, 1998

25 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

April 10, 1996

Arguments - Support proposed substitute for CS HB 528 before House Finance Committee April 10, 1996. The Proposed substitute bill will continue to stop the construction of new nursing home beds or the conversion of hospital beds to nursing home beds in Alaska until July 1, 1997. The proposed substitute bill makes these changes:

Section 1 - Page 1 deletes subparagraph (1) and subparagraph (2) in the Findings. These two paragraphs were misleading on the availability of nursing home beds in the state. Nursing homes in Fairbanks, Nome and Anchorage are more than 90% full.

Section 2 - page 2. is deleted.

The Findings in Section 1 indicate the purpose of this bill is to stop the building of any nursing home beds in Alaska for at least a year so we can look at less expensive ways to provide care to seniors and the disabled.

Section 2 is not germane to the bill. It allows the Department of Health & Social Services to establish state policy on the funding of new construction or new services for health care facilities in Alaska. This is the responsibility of the Legislature.

Under the CON law, the Department is not suppose to issue a Certificate of Need if there is "less costly or more effective alternative methods of providing the services to be offered, (or) expanded....."

Section 3, line 29, page 2 - the language that would not allow an application for a certificate of need to be submitted is removed. The section would still not allow the granting of a certificate of need or the conversion of hospital beds to nursing home beds until July 1, 1997. This would allow a community to apply for a CON, and let the Department evaluate that CON. Otherwise this one year moratorium will turn into a 2 or more year moratorium. Valley hospital in Palmer has a CON pending for the Mat Su Valley. This CON was submitted in December, 1995. They deserve to know before July 1, 1997 whether or not the CON will be approved.

Section 4, page 3, line 20. - The changes in this section are to:

A - change of the name of the working group to planning group and to have this group not only answer the questions in this section, but to bring back to the Legislature what the plan should be to meet the long term care needs of all Alaskans.

B. have one of the two providers on the planning group to be a licensed nursing home administrator who operates a community nursing home here in Alaska.

More Information - Harlan Knudson, ASHNSA 586-1790.

###end###

①  
ATTACHMENT  
4/12/96A

# STATE OF ALASKA

## DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 110601  
JUNEAU, ALASKA 99811-0601  
PHONE: (907) 465-3030  
FAX: (907) 465-3068

### ISSUES ANALYSIS CS FOR HOUSE BILL 528(HES)

"An Act relating to applications for certificates of need and licensing of nursing homes; amending the standard of review for certificates of need for health care facilities in the state; establishing a moratorium with respect to new applications by prohibiting the issuance of a certificate of need or a license for additional nursing home capacity in the state until July 1, 1997; and providing for an effective date."

The Department of Health and Social Services strongly supports CSHB 528 and agrees with the legislative findings that are included in the bill.

This bill sets out legislative findings that no new beds are needed and that home and community-based services should be promoted. CSHB 528 places a one year moratorium on construction and/or the addition of nursing care beds and changes review standard language for the certificate of need (CON) program.

The adoption of CSHB 528 will:

1. Contain Medicaid costs;
2. Encourage the development of home and community based services;
3. Allow time for Alaska to move towards a more balanced long-term care system;
4. Provide more appropriate placement of seniors;
5. Redirect resources towards the services that can best meet the needs of recipients; and
6. Provide seniors with more choices in long-term care services.

The new CON review standard language will reflect current trends in care delivery, is more understandable, and gives the department more flexibility in meeting long-term care needs. The new standard gives greater consideration to client choice, alternatives, cost effectiveness, population base, and the continuum of care rather than just looking at the availability and quality of a service.

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**ISSUES ANALYSIS**  
**CSHB 528**  
**PAGE 2**

No new nursing care beds need to be built in the foreseeable future because of low statewide occupancy rates and the movement to more community based services. Although some Alaskan nursing homes may have high occupancy rates, the statewide occupancy rates remain low. In 1992, Alaska's statewide occupancy rate was only 77.5%, compared with the national average of 89.0%. In 1995, statistics show that the statewide nursing home occupancy rate had risen to only 85%, which is still low by national standards.

The health care industry in Alaska plans to build 147 new nursing home beds and 18 replacement beds by the year 2000. If all of the beds are built, the Medicaid budget will increase over a 5 year period of time from an estimated \$3.6 million in the second year to \$15.4 million annually by the year 2002. Half of the money (\$1.8 to \$7.7 million) will come out of the State general fund. Alaska's existing long-term care system is already "unbalanced" in favor of institutional nursing home services. This means that seniors often have to choose a nursing home which is the most intensive, restrictive, and expensive type of care because there are not enough community-based services available. The growth and maintenance of community based care is threatened by construction of unnecessary nursing home beds. Medicaid growth is likely to be capped or severely reduced in the future. If new nursing care beds are added, seniors' choices will be restricted because funding new nursing beds competes directly with funds available for community based services. A moratorium on new nursing home beds will encourage the development of home and community based services and allow time for Alaska to move towards a more balanced long-term care system.

Nursing home care beds are much more costly than community based services. In 1993, the average annual Medicaid rate for a nursing home bed was \$80 thousand while typical costs for community based care range from \$19 thousand to \$52 thousand per client. Before committing scarce financial resources to unneeded new nursing beds, Alaska needs to ensure better access to community based services. A very large percent of nursing home care is paid for by Medicaid. Nursing care beds in Alaska are extremely costly (nearly \$86 thousand per year per bed) which is much higher than other states (an estimated \$30 thousand more annually per bed than Oregon). This high cost exhausts most nursing home patient's resources in a short time. Most nursing home patients are forced to turn to welfare (Medicaid) to pay for care. As a result, 89% of all clients in Alaska nursing homes as of July 31, 1995, were Medicaid funded.

Nursing home care is not what Alaskan seniors want. They have indicated through surveys an overwhelming preference for alternatives to nursing homes. They want to live in the least restrictive setting close to family and friends. Community based alternatives to nursing homes allow seniors to stay at home longer and therefore avoid entirely or delay expensive nursing care.

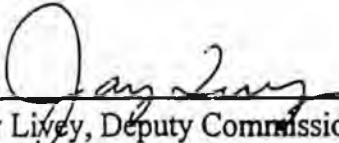
**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
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**PAGE 3**

CSHB 528 allows for the conversion of existing acute care beds to skilled nursing beds used for transitional short-term care. This will allow Alaska's hospitals the flexibility to transition patients out to the appropriate setting and utilize some of the many empty acute beds in the state.

Another component of CSHB 528 calls for the establishment of a 6-member working group composed of consumers, providers, and representatives of the state to analyze long-term care issues. This group would gather information and write a report within a year on the projected need for long-term care services, the status and cost of the system, alternatives to nursing homes, the estimated number of individuals currently in nursing homes who could live in an alternative setting, and recommendations for principles to guide the long-term care system and certificate of need process in the next five to twenty years.

In addition to the moratorium, CSHB 528 amends the standard of review for applications for certificates of need. The current review language in AS 18.07.041 is based on an old federal law from the 1970's which does not reflect the current health care trend towards less intensive care and shorter inpatient stays. The current language does not require consideration of less costly alternatives, the appropriate placement of clients, client choice, whether the population base is large enough to financially support a service, or if the state can afford it. The new language will redefine the standard by reflecting current trends, making the language more understandable, and giving the department more flexibility in considering the most cost effective means of providing services.


Recommended By: \_\_\_\_\_

  
Jay Livsey, Deputy Commissioner  
Department of Health and Social Services

Date: \_\_\_\_\_

3/26/96

Approved by: \_\_\_\_\_

  
Karen Perdue, Commissioner  
Department of Health and Social Services

Date: \_\_\_\_\_

3/26/96



**TONY KNOWLES, GOVERNOR**  
State of Alaska

**GOVERNOR'S COUNCIL ON DISABILITIES**

P.O. Box 240249 • Anchorage, Alaska 99524-0249 • Phone: 907-563-6366 • Fax: 907-563-6367

Representative Mark Hanley  
Room 507  
State Capitol  
Juneau, Alaska 99801-1182

March 1, 1996

Dear Representative Hanley;

Thank you for your efforts in addressing the long-term care needs of Alaskans with disabilities through House Bill 528. The Governor's Council on Disabilities and Special believes that House Bill 528 will encourage the development of home care services.

After looking into this issue with you last session, we found that Alaska has more long-term care beds in some communities than are required. In addition, the state currently has virtually no way to halt the process that hospitals and nursing homes use to increase the number of beds or convert from one kind of service to another. The operational costs fall to the state. For example, ten new long-term care beds cost the state roughly \$1 million in unplanned, unbudgeted Medicaid program expenses. If excess beds are available, the current nursing home rate structure creates an incentive for institutions to work diligently to fill them with Medicaid recipients.

Facility-based care belongs on the spectrum of services to individuals who have disabilities. However, it should be a service of last resort. Alaskans who have disabilities benefit more from care which keeps them in their homes and communities. Facility-based care, at an average cost of \$100,000 per person per year, is much more expensive than community-based care, at an average cost of \$3,920 per person per year. Consequently, the state loses money when Alaskans stay in facilities.

This bill provides for a much needed moratorium on the construction of long-term care beds. During the moratorium, state agencies will provide more appropriate placement of seniors and people with disabilities, resources will be redirected towards services that can best meet the needs of recipients, and Medicaid costs will be contained. Enclosed please find the Council's position paper from last year.

Again, thank you for your attention to the needs of Alaskans with disabilities. If we can assist in any way, please call the Council's Executive Director, David Maltman, at (907) 563-5355.

Sincerely,

Kathy Fitzgerald  
Governor's Council on Disabilities  
and Special Education, Chair

Enclosure  
cc: (H)HESS Chair



TONY KNOWLES, GOVERNOR

**GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION**

P.O. Box 210219 • Anchorage, Alaska 99524-0219 • Phone: 907-563-3353 • Fax: 907-563-6357

**Impact of a moratorium on long-term care beds in Alaska**  
April 18, 1995

**Introduction**

The Governor's Council on Disabilities and Special Education (the Council) advocates on behalf of individuals who have developmental disabilities and their families. Most people who have severe, lifelong disabilities use services funded by Medicaid. When the Medicaid program changes, the individuals most affected are those with disabilities.

In the mid-80s, the Council identified ways that Alaska could optimize Medicaid funding for individuals who have severe disabilities through Waivers. With the Older Alaskans Commission and the Department of Health and Social Services (DHSS), the Council developed a package of Waivers and the TEFRA Option in 1992. These innovations maximize federal Medicaid funding while reducing the cost to the state. The Council is interested in continuing to work with the Legislature and DHSS in identifying ways to use Medicaid more efficiently.

To this end, the Medicaid Subcommittee has investigated several ways to decrease the cost of Medicaid while improving program efficiency. One way to cut the cost of Medicaid is to place a moratorium on long-term care beds. This paper describes the problem, impact on individuals who have developmental disabilities, the cost of service, and the factors involved in a moratorium.

**Recommendation**

The Council recommends that the legislature impose a two year moratorium on long-term care bed construction and conversion. During this two year period, DHSS should reassess the process by which Certificates of Need are given.

**Problem Statement**

The Legislature is seeking ways to decrease the cost of health coverage to poor people in Alaska. Several ways to cut the cost of Medicaid deserve consideration. This paper will discuss one way to cut Medicaid costs, and the implications for Alaskans who have disabilities and their families.

Last year, the Legislature decreased Medicaid funding in two ways. By requiring that Medicaid recipients pay a share of home and community based care costs, the Legislature hoped to decrease the state's cost. The Legislature also chose to eliminate funds, resulting in loss of eight services to adults, as allowed in AS 47.07.035. These decreases came from the Medicaid non-facility budget, which serves most poor and disabled Alaskans at a fraction of the cost of facility based care. These decreases have hampered implementation of the home and community based waivers, which the 18th legislature put into place. Individuals ready to transition out of hospital based care are hard pressed to leave, because necessary community based care is not paid by Medicaid or is more costly to the consumer. The state pays a higher price for the same services in the institutional setting than in a community setting.

Alaska has been conservative in capturing federal dollars to supplement state health and social service expenditures. Imminent federal initiatives to give states funds through block grants will decrease Alaska's federal receipts significantly. This is not the time to cut Medicaid expenditures; it is time to assure that Alaska has the fiscal flexibility to meet adequately the needs of its poorest and most disabled citizens.

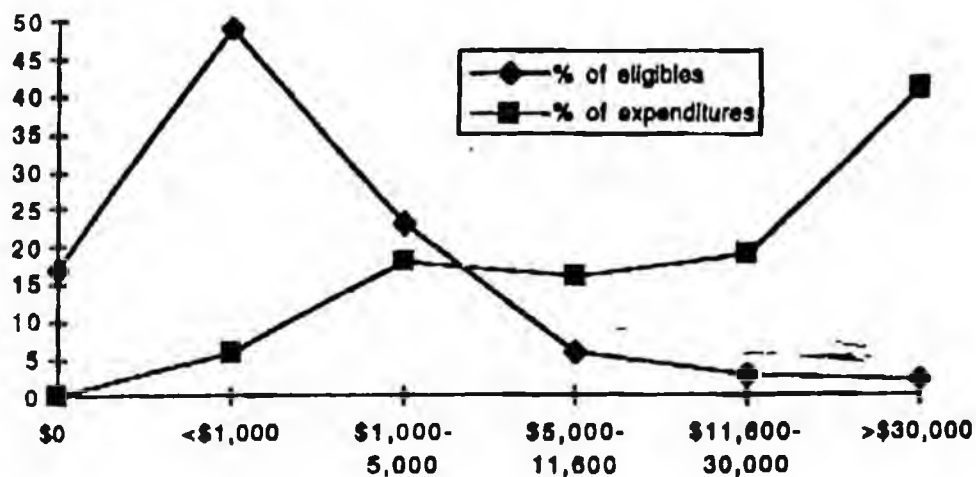
#### **Cost of services**

Alaska's costs of services are distributed disproportionately across the Medicaid-eligible population. A brief review of Medicaid expenditures in FY94 reveals that relatively few Alaskans require high cost Medicaid services--yet the bulk of funds pay for services to these few Alaskans who have serious disabilities. This high-cost care is paid to hospitals, nursing homes, and intermediate care facilities.

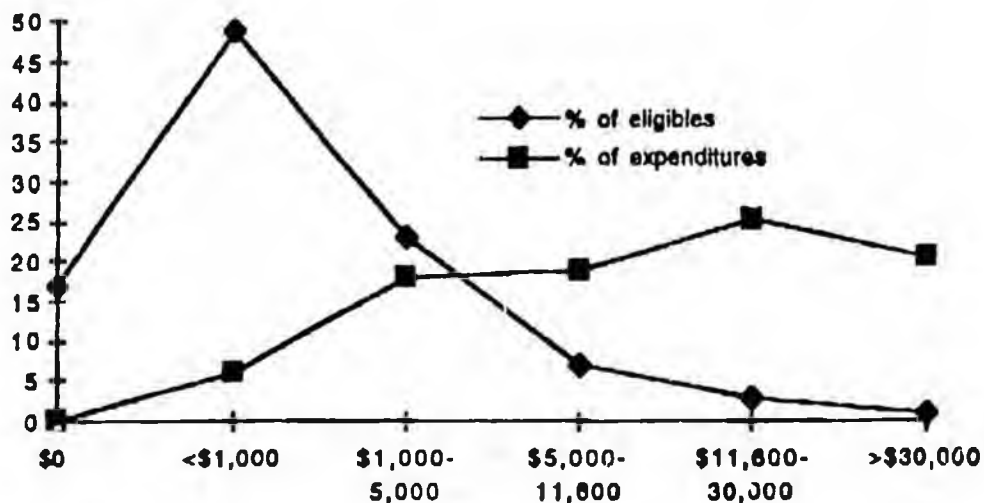
The state's Medicaid funds are tied to institutional care because of a federal requirement known as the Boren Amendment. The Boren Amendment guarantees institutional facilities reasonable payment rates. As long as poor Alaskans are in hospitals and nursing homes, the state is forced to pay these institutions anywhere from \$72,000 to \$300,000 per person per year. Not only are Alaska's Medicaid dollars funding institutional care, but state general funds cover 100 percent of the care to 2,200 Alaskans with disabilities who do not reside in institutions. The home and community based services waivers put into place in FY94 reduce the state's total cost by maximizing the federal government's share through Medicaid.

Virtually all Alaskans in institutional settings can benefit from less costly home and community based care. These home and community based services are funded in the Medicaid non-facility component. When home and community based services are reduced or eliminated, however, the number of individuals who can receive life-sustaining services nowhere else must return to hospitals and nursing homes at a higher cost to the state.

FY94 Medicaid Expenditure Distribution by Eligibles



By fully funding lower-cost home and community based services for the individuals who require specialized care, and reducing use of institutional care, the state could reduce its Medicaid expenditures significantly. Roughly, Medicaid expenditures could look more like the chart below:



However, as the state continues to decrease home and community based services through cuts to the non-facility Medicaid component, the state's institutional cost of care will continue to rise.

### Relevance to people with disabilities and their families

Roughly 10,600 Alaskans have developmental disabilities.<sup>1</sup> Most adults with developmental disabilities are among the approximately 10,000 Medicaid users who are eligible for or use SSI and Adult Public Assistance because of their disabilities or chronic illnesses. These Medicaid users who have disabilities are also poor, and therefore qualify for the program. The monthly income for an individual who uses SSI and Adult Public Assistance ranges from about \$800 to \$825. About 678 of these poor individuals who have disabilities or who are aging use nursing facilities, ICFs-MR, or residential psychiatric hospital care.<sup>2</sup> Medicaid pays for the cost of long-term care and for all other health care costs, as required by state and federal laws.

Of the 67,631 individuals using the Medicaid program,<sup>3</sup> 41,159 are children. As many as 15,155 Alaskan children experience health problems requiring special care.<sup>4</sup> About 3,500 infants and toddlers require early intervention services to prevent or ameliorate disabilities, reducing the need for more intrusive and extensive lifelong supports.<sup>5</sup> Other children with disabling conditions are served solely within the educational system, comprising 6.47 percent of the population of all children and youth ages 3 through 21.<sup>6</sup> Despite the prevalence of children in the Medicaid population, children are very inexpensive to serve.

About 70 percent of all Alaskans with disabilities use Medicaid services. These are 16 percent of Medicaid users who cost the state more than \$3,920, the average yearly cost per person. Approximately 22,600 Alaskans ages 16 to 64 have work disabilities and do not receive institutional levels of care. Of those, 7,900 are prevented from working because of disabling conditions. An additional 8,600 Alaskans ages 16 to 64 have mobility and/or self-care limitations and do not receive institutional levels of care.<sup>7</sup> More than 95,700 Alaskans have permanent disabilities that substantially limit one or more major life activities, have a history of such disabilities, or are regarded as having such disabilities.<sup>8</sup>

Parents of children with disabilities often find themselves forced to live on public assistance to guarantee Medicaid coverage for their children who have disabili-

<sup>1</sup> Gollay, E. (1981): *Summary Report on the Implications of Modifying the Definition of a Developmental Disability*. Department of Health, Education & Welfare.

<sup>2</sup> Division of Medical Assistance (1994). *Alaska Nursing Homes Census for 6/30/94*. State of Alaska, Department of Health and Social Services, Division of Medical Assistance.

<sup>3</sup> Kim Busch, Policy Analyst, Division of Medical Assistance, February 1995. Although 83,920 Alaskans are eligible, only eighty percent actually use the Medicaid program.

<sup>4</sup> Dick, S.E. (1992). *An Estimate of the Number of Children with Special Health Care Needs in the State of Alaska*. University of Illinois: Chicago.

<sup>5</sup> Division of Public Health, Section of Maternal, Child, and Family Health.

<sup>6</sup> Department of Education, Educational Program Support (1992): *Annual Data Reports*, parts III and IV, 1991-92 School Year. Juneau, AK. The number of children served in all special education programs was 11,721. The total number of children and youth ages 3 through 21 in Alaska is 123,621 (Alaska Population Overview, 1991).

<sup>7</sup> U.S. Department of Commerce, Bureau of the Census (1992). *1990 Census of Population and Housing*.

<sup>8</sup> Americans with Disabilities Act of 1990, Section 1(b)(2), Findings and Purposes, (a)(1).

ties. Adults who have disabilities find themselves unable to find work that provides them with adequate medical coverage. These individuals are those who are least likely to leave the medical and public assistance systems because their disabilities substantially limit their ability to work. This is also the group of people who use most Medicaid services. Any changes to the Medicaid system will affect them more than any other group of Alaskans.

#### **Capping the number of long-term care beds.**

In Alaska, the Medicaid facility budget accounts for 54 percent of expenditures-- a high price for relatively few services. The state pays for beds, and therefore has fewer funds for home and community based options. At the same time, state and federal law require that individuals who require long-term care and who can receive home or community based care at the same or lesser cost shall receive that option.

Alaska Statute 18.07.031 allows anyone or any agency to spend under \$1 million to construct a health care facility, change the number of beds in a health care facility, or change the kinds of services provided by a health care facility<sup>9</sup>. If a facility intends to spend over \$1 million, it requires a Certificate of Need from DHSS. A Certificate of Need is based on the availability, accessibility, and quality of existing health care resources. DHSS can issue temporary and emergency certificates, and certificates may be modified. When DHSS denies a Certificate of Need, an applicant may appeal the denial to a hearing officer. Appeals usually result in authorization to build, regardless of the community's actual need for long-term care beds.

Programs can make changes under \$1 million without DHSS approval. This creates the opportunity for unplanned increases in facility beds. Construction of several smaller projects over a period of time has the same effect as building a few large projects. The state currently has virtually no way to halt "nursing home creep," in which hospitals and nursing homes increase the number of beds or convert from one kind of service to another at state expense. The operational costs fall to the state, and are far more costly than the original capital costs. For example, ten new long-term care beds cost the state roughly \$1 million in unplanned, unbudgeted Medicaid program expenses. It is essential that the state identify all needed bed space and monitor its construction in a planned manner.

<sup>9</sup> Statute describes "health care facility" as a private municipal, state, or federal hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney disease treatment center, intermediate care facility, and ambulatory surgical facility. "Health care facility" does not mean an Alaska Pioneers' Home, or private physicians' or dentists' offices.





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# Alaska Commission on Aging

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## ALASKA COMMISSION ON AGING

### RESOLUTION 96-3

*In support of a moratorium on construction of additional nursing facility beds*

**WHEREAS** Alaska's existing long term care system is now largely made up of institutional long term care services; and

**WHEREAS** the current availability of nursing home beds in many areas exceeds the actual need for nursing home beds in the state; and

**WHEREAS** Alaska's seniors have indicated through surveys an overwhelming preference for alternatives to nursing homes, and they want to live in the least restrictive setting close to family and friends; and

**WHEREAS** seniors often have to choose nursing home care, which is the most intensive, restrictive, and expensive type of care, because there is no community-based service available; and

**WHEREAS** the future of Medicaid financing is under discussion at the federal level; and

**WHEREAS** the state Medicaid financing is finite and is forcing choices among Medicaid programs; and

**WHEREAS** the growth and maintenance of much needed community-based care is threatened by construction of unnecessary nursing home beds; and

**WHEREAS** if new nursing home beds are added, seniors' choices will be restricted, because new nursing home beds compete directly for public funds available for community-based services; and

**WHEREAS** House Bill 528 will encourage the development of home and community-based services and allow time for Alaska to move toward a more balanced long-term care system;

**NOW THEREFORE BE IT RESOLVED** that the Alaska Commission on Aging strongly encourages the Alaska Legislature to enact House Bill 528, which would place a two year moratorium on new nursing home beds.

Adopted this 5th day of March, 1996.

A handwritten signature in cursive script that reads "Donald M. Hoover".

Donald M. Hoover, Chair  
Alaska Commission on Aging

## LONG-TERM CARE BED MORATORIUM IN ALASKA

The health care industry in Alaska is planning to build substantial number of new long term care beds. The total number of beds could increase by 20% within 3 to 5 years from 909 to a total of 1,087. Letters of intent or strategic plans were received from 9 facilities interested in adding a total of 178 new beds and 63 replacement beds. Initially, the Medicaid budget would increase an estimated \$11.9 to \$12.3 million annually and operating costs could increase substantially after that.

Seniors in Alaska want to avoid nursing homes and live at home as long as possible. The growth and maintenance of community care will be threatened if unplanned and unnecessary nursing home beds are allowed to be built. In 1993, the average annual Medicaid rate for a nursing home bed was \$80,926. Typical costs for community based care were significantly lower from \$19,770 to \$52,389 per client.

"Home and Community-Based services" enable elderly Alaskans to avoid entirely, or postpone nursing home placement. Programs specifically designed to keep seniors out of nursing homes include:

- Adult day care and family respite care (AS 47.65.100) target "frail older persons and other similarly disabled" who are "at risk of institutional placement."
- Home and Community-Based Waivers (7 AAC 43.100) offer an alternative to institutional care to Medicaid eligible clients.
- AS 47.33.005 promotes establishment of assisted living homes to help the elderly "age in place." There are currently 393 assisted living beds in Alaska.
- Personal care attendant services (7 AAC 43.750 (a)), enable an individual who would otherwise require nursing home placement to remain safely at home.

Other services include Home Health Care (7 AAC 43.800), homemaker/chore services, home health aid, adult foster care, specialized private duty nursing, case management, home delivered and congregate meals, habilitation services, and transportation.

Construction of some of the nursing home beds may be prevented by the Certificate of Need Program. However, a significant number (35 beds or 28%) could be built without a Certificate of Need review because of loopholes in the law.

A two year moratorium on long-term care beds would allow time for the community based services programs to more fully develop. Also, it would allow the Department of Health and Social Services and the Division of Senior Services time to develop a plan for the orderly development and proper mix of community based services and long-term care beds.

## Potential Increase in Long-Term-Care Beds

Plans are being developed to build a substantial number of new long term care beds in Alaska. The total number of beds could increase by 20% from 909 to a total of 1,087. So far this year, letters of intent or strategic plans were received from 9 facilities interested in building new or converting to long term-care beds. A total of 178 new beds and 63 replacement beds are planned. Five beds were built in 1994, and 52 beds could be built in 1995. **Impact:** Medicaid costs for the next decade could increase by \$11 - \$15 Million (capital) and \$108 million (operating).

Letter of Intent or Plans Received:	Number of Beds Planned	Estimated Construction Cost	Estimated Completion Date	Is a CON Required?	Annual Medicaid Construction Costs	Annual Medicaid Operating Costs
Heritage Place	15 new beds	\$ 920,000	1/96	No	\$ 36,800	\$ 747,578
St. Ann's Care Ctr.	20 new/45 replaced	\$ 13-20 Million	12/96-8/97	Yes	\$ 520K-\$800,000	\$ 1,257,271
Valley Hospital	60 new beds	\$5,000,000	9/96-4/97	Yes	\$ 200,000	\$ 3,445,623
So. Peninsula Hospital	8 new/18 replaced	\$ 150,000? to \$3 M	1996 or 1998-2000	No/Yes*	\$ 5K-\$120,000	\$ 728,027
YK Health Corp	34 new beds	\$ 6,923,720	analysis only	Yes	\$ 276,949	\$ 2,440,650
<b>Conversions:</b>						
AK Regional Hosp.	16 beds	\$ 488,000	5/15/95	No	\$ 19,520	\$ 918,833
Sitka Community	5 beds	\$ 155,000	11/94	No	\$ 6,200	\$ 300,446
Fairbanks Memorial	8 to 12 beds	\$ 230,000 to \$1.3 M	1995	No/Yes*	\$ 9,200-\$52,000	\$ 459,416
Plumfield House	8 beds	\$ 6,000	June-July, 1995	No	\$ 240	\$ 459,416
<b>Totals:</b>	<b>178 new, 63 replacement beds</b>	<b>\$ 26,872,720 to \$ 37,792,720</b>		<b>4 NO, 3 YES, 2 UNK</b>	<b>\$ 1,074,909-\$ 1,511,709</b>	<b>\$ 10,757,261</b>

South Peninsula Hospital is considering adding 8 LTC beds (by converting acute beds) and then building a new LTC facility for \$3 million in 3 to 5 years. Sitka Community Hospital wants to add additional beds at a future date and Providence Hospital has expressed interest in converting some beds from acute to long-term care. Fairbanks and Alaska Regional want to designate their beds as "Subacute care." St. Ann's will be connected to Bartlett memorial Hospital and Valdez Hospital and Seward General Hospital are interested in merging facilities with Sourdough Place and Wesley Rehabilitation and Care Center respectively. The purpose of co-locating is to increase revenues. The \$6.9 million YK project would be almost totally funded by Medicaid, since federal funds are not available for long-term care.

Capital depreciation will cost Medicaid an estimated \$1.1 to \$1.5 million annually, and operational costs nearly \$11 million. If all the beds are built, the fiscal impact would increase Medicaid by \$12 million annually. 44% to 66% of projects would not be reviewed by a CON. The largest component of cost, operating costs, are 7-10 times greater than depreciation and would not be reviewed by CON. **Methodology:** Medicaid occupancy rates are from the July 31, 1994, Alaska Nursing Home Census; per diem rates from a special Medicaid Rate Advisory Commission report (4/10/95). New facilities with no prior per diem rates used the swing bed rate of \$218.52. Medicaid depreciation was figured by dividing the total cost of the project by 25 years and multiplying by the percent of Medicaid utilization. Operational costs were figured using per diem rates multiplied by the number of beds multiplied by the % Medicaid occupancy rate.

\*May require a CON if over \$1 million threshold.



# Yukon-Kuskokwim Health Corporation

Yukon-Kuskokwim Delta Regional Hospital

*"Fastening Native Self-Determination in Primary Care, Prevention and Health Promotion"*

March 12, 1996

The Honorable Cynthia Toohey  
Room 104  
State Capital  
Juneau, AK 66501-1182

The Honorable Con Bunde  
Room 108  
State Capital  
Juneau, AK 99801-1182

Dear Representative Hooley and Bunde:

The Yukon-Kuskokwim Health Corporation (YKHC) is the primary regional health care provider throughout the Yukon-Kuskokwim Delta. We serve the approximately 25,000 Alaska Native and non-Natives who make their homes in Bethel and the other 57 villages of this region. We have had the opportunity to review HB 528, which is being heard in the Health, Education and Social Services Committee this afternoon. This act would among other things establish a moratorium with respect to new applications for certificates of need by prohibiting the issuance of a certificate of need or a license for additional nursing home capacity in the state until July 1, 1998.

While YKHC shares the concern of members of the Legislature about unnecessary expansion of nursing home beds in Alaska, we must oppose the bill as currently drafted. There are no nursing home beds in the entire Yukon-Kuskokwim Delta. There is no Pioneer Home in our region. We cannot accept any moratorium on expansion that would prohibit even consideration of a need for nursing home beds in our region. The family members of an elder or injured person in our region who wants to maintain contact with their loved one must now travel hundreds of miles by plane to do so. This is certainly not an acceptable situation.

If control of unwarranted increase in nursing home beds in the state is the objective, we respectfully recommend that the bill address the conversion of beds in projects that cost less than the triggering amount for a certificate of need. That is the primary source of new nursing home beds in the past few years, with the exception, of course, of the must needed replacement of Denali Center in Fairbanks.

We appreciate your consideration of our concerns. We are willing to work with the Committee to try to find more acceptable language if that would be helpful.

Sincerely,

Gene Peltola  
President/CEO

cc: The Honorable Tony Knowles  
The Honorable Karen Perdue

TONY KNOWLES, GOVERNOR

**STATE INDEPENDENT LIVING COUNCIL**

1016 West 6th Avenue, Suite 102  
Anchorage, AK 99501-1965  
Phone/TTY: (907) 272-8244  
Message TTY: (907) 563-0153  
Fax: (907) 277-8504

March 6, 1996

Representative Mark Hanley  
Representative Richard Foster,  
Co-Chairs, House Finance Committee  
State Capitol  
Juneau, AK 99801

Dear Sirs:

The State Independent Living Council (SILC) applauds the introduction of HB 528, *"An Act relating to applications for certificates of need and licensing of nursing homes; amending the standard of review for certificates of need for health care facilities in the state; establishing a moratorium with respect to new applications by prohibiting the issuance of a certificate of need or a license for additional nursing home capacity in the state until July 1, 1998; and providing for an effective date."*

The SILC feels this legislation is long over due. It is a step in the right direction - putting greater emphasis on community based, individualized care versus the expensive long term care provided via nursing homes. We feel the current system, funded in a large part with public Medicaid dollars, is slanted toward "institutionalization" as a matter of course when it comes to long term care for both seniors and Alaskans with severe disabilities. In talking with our disabled colleagues across the country, we have found this to be true in every state.

For example, in 1995, 141,000 people with disabilities in the United States were served in nursing homes at a cost of \$9.2 billion to Medicaid, an average of \$65,250 per person. On the other hand, through Medicaid waivers, 155,000 people were provided home and community based services at a cost of \$4.3 billion, or \$27,740 per person.

Alaska is no different. According to the Department of Health & Social Services, the average annual cost to house one of our citizens in a nursing home in 1993 was \$80,926, while typical costs for community based care ranged from \$19,770 to \$52,389. DHHS is acting in the best interest of all Alaskans through their support of this legislation, as well as their planned de-institutionalization of state run facilities, such as Harborview.

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The question of finances, and the gross inequity of care costs for institutionalization versus community based care, is obviously a major concern to you and all Alaskans. Your bill questions the need for more beds for senior citizens in nursing homes, but it also addresses the question for the 140 plus Alaskans with disabilities under the age of 64 years also living in these institutions?

Do these citizens, stripped of their dignity and independence, deserve to be housed in medical institutions? Perhaps, for some individuals who are sick, and who require, at the moment, 24 hour medical care, the need for care provided from these institutions is relevant. But most people with significant disabilities who have found themselves, one way or another, in our state sponsored institutions, are not "sick". They are not patients. They are people. And many of these people want out. They want independence to direct their own lives and to cope with their disability on their own terms. But they need our support in a way that provides them with the tools to direct their own lives.

What are these tools that we can provide? The SILC has held a number of town meetings around the State to gather input from the public on a number of issues that effect the lives of persons with disabilities and their ability to live independently. We have gathered testimony from people who live in institutions, those who have "been freed" (as they often put it), and those who have successfully lived their lives outside the institutional walls. We have heard from people directly, what makes it work for them, and what would make it work better.

Foremost, it is providing a well-trained, personal assistance work force who are available to be hired (and fired if need be) by disabled consumers themselves. Alaska has a severe shortage of personal care assistants. Many of the programs that provide these services are so grossly under funded (most of our Medicaid dollars is going to institutionalizing people). Consumers, who are trying to live independently, are given few options as to who their care giver is from one week to the next. The wages paid to personal assistants are often so low, that not many hired "program" personal assistants, stick around for very long. (People who have the ability to hire their own personal assistants have typically fared much better, but often need help in learning how to "hire" and "fire" such assistants). Consumers are often told their is a limit to the hours of service they can get, sometimes putting their very lives in danger and often times, forcing individuals back into institutions because of the lack of consistent care. We need to put more funding in personal assistance services, and we need to direct more "consumer control" in the services themselves.

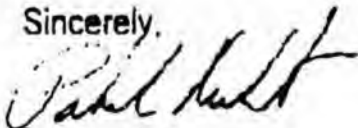
Page 3/SILC

Other major concerns we have heard about, for which the Council has been and will continue to work with Legislature and other policy makers on, are transportation services, accessible and affordable housing, access to interpreters for the deaf, independent living skills training, recreation and more.

Again, we urge you to pass this bill. We also urge you to redirect funding now going toward institutional care to more cost efficient, consumer directed, home and community based services.

Should you have any questions regarding the State Independent Living Council or any of the issues we are concerned with, please feel free to call me at 272-8244 (V/TTY).

Sincerely,



Patrick Reinhart  
Executive Director  
State Independent Living Council

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# Providence Options For Older Alaskans



## Providence Home Health Care – 261-3173

The oldest home health care provider in Alaska, caring for the medical needs of older Alaskans while they remain in their own homes. We provide assistance with daily activities, personal care services and rehabilitative services, backed by the resources of Providence Alaska Medical Center. We also provide Lifeline personal emergency response service.



## Providence Horizon House – 261-4140

An assisted living, residential community for older Alaskans that combines personal care assistance, meals and activities, all under one roof. Residents live in independent studio apartments and help decide which services they need.



## Mary Conrad Center – 333-8100

A 90-bed long-term care facility in east Anchorage providing 24-hour skilled nursing care that reflects the Providence mission of compassion, respect for the dignity of persons and excellence of service. (Mary Conrad Center is operated by Cook Inlet Housing Development Corporation and managed by the Providence Health System.)



## Providence Extended Care Center – 562-2281

A 224-bed long-term care facility in mid-town Anchorage providing 24-hour skilled nursing care and rehabilitation services. Our care also reflects the Providence mission, emphasizing compassion and respect and striving for excellence. (Formerly Our Home of Compassion Care Center.)



## Senior Connection – 762-0260

A health promotion membership program for seniors 55 and over that provides a newsletter, insurance billing counseling and discounts on cafeteria meals and screenings.

Extended care services of



Providence Health System

ALASKA STATE

# HOSPITAL & NURSING HOME


ASSOCIATION

March 22, 1996

Representative Mark Hanley, Co-Chair  
Finance Committee  
House of Representatives  
State Capitol  
Juneau AK 99801-1182

Re: Oppose CSHB 528  
Certificate of Need

Dear Representative Hanley:



ASHNHA, representing community hospitals and nursing homes across the state asks that you vote "No" on CSHB 528.

ASHNHA members share with this Legislature the need to hold the 1997 Medicaid budget at no growth, but feel strongly that CSHB 528 concentrates on nursing beds and care provided in hospitals and nursing homes while ignoring non-facility and home-community based care that is growing in cost at almost twice the percentage rate as facility based care.

The Certificate of Need program is a failed program. The Department that issued the Certificate of Need for our small rural hospital/nursing homes now tells us those beds were not needed. This same agency has provided no information on the future need or cost for home and community based services, assisted living care or nursing care.

CSHB 528 establishes as public policy that individuals living in Fairbanks (92% nursing home occupancy); Anchorage (97% occupancy); Nome (100% occupancy); Homer (100% occupancy) Bethel (no beds) and the Mat Su Valley (CON pending) travel hundreds of miles (or leave the state) for nursing home care.

CSHB 528 - Section 1 provides misleading information on the number of nursing home beds in Alaska by implying Alaska has more beds than needed and that many current nursing home patients can be cared for in assisted living facilities.

Section 2 transfer to the DHSS the final approval of any/all CONs for hospitals and nursing homes, authorizing DHSS to reject an approved CON based on availability of Medicaid funding. Hospitals needing subacute care beds or new equipment for private pay and/or Medicare patients can be denied an approved CON because DHSS fears these needed services may impact the Medicaid budget.

(More)

We see this section as giving the administrators within the DHSS total control over the availability of facility based health care in Alaska.

**Section 3** - prohibits the DHSS to accept a CON application for new or conversion to nursing beds for (1 year) from effective date of the act. In 1992 there were 764 licensed nursing home beds in Alaska (excludes Pioneer System). On February 29, 1996 there are 761 nursing beds. Nursing home beds in the past 5 years have decreased. DHSS predictions that over a hundred new nursing beds are going to be built in Alaska is totally without valid data.

**Section 4** - Calls for work group (2 providers - 2 over age 60 consumers; 1 Dept. of Administration & 1 DHSS) to study and report back on long term care needs in Alaska. This section added by House HESS Committee is the only section in bill that has merit. **Section 5** - repeals section 4 on the opening of the 1997 session of the Legislature. **Section 6** - sunsets moratorium on issuing a CON for nursing beds as of July 1, 1997. **Section 7** - has act take effect immediately once the Governor signs the bill.

The association really believes that state Certificate of Need program is a "failed" program and that enacting any part of this bill only perpetuates this failed state program.

We ask that you vote no on HB 528 and that you consider an appropriate Resolution calling for the Departments of Administration, Department of Health & Social Services, health care providers and senior health care advocacy groups to bring back to the Legislature and Governor in 1997 answers to these kinds of questions:

The Department of Health & Social Services, in collaboration with the Department of Administration is directed to appoint an Alaska Inter-Agency - Provider - Consumer Workgroup on Long Term Care Policies, Costs, Funding Sources & Needs.

Purpose of the workgroup will be to report to the Legislature and Governor by January 31, 1997 on:

1. Number of individuals in Alaska over age 60, and the projected growth in this population by ages of 60, 70, 80 and 90 needing long term care services.
2. Number of disabled in Alaska who need (are eligible) for home, community based, and nursing home care (by geographic area) in Alaska.
3. Provide both projections for 1998, and a methodology for identifying and projecting the number of disabled Alaskans, and Alaskans needing senior long term care services by geographic areas throughout Alaska that will show the need (by individual & family) for:

(More)

- health care coordination;
- in-home respite care;
- personal care;
- adult day care;
- home health care;
- nutrition care;
- assisted living (community based and Pioneer Home)
- adult foster care
- nursing home care

The number of individuals currently residing in nursing homes (both community and Pioneer Homes) that meet agreed upon (health/medical/financial & family) criteria that would indicate a lesser level of care.

3. Report on the cost, quality review requirements, funding sources and estimated federal, state and private expenditures for the services described in paragraph 2.

4. Review and report back on the AARP Public Policy Institute report (#9602, February, 1996) on New Directions for State Long Term Care Systems. This report reviews:

- Limiting the Use of Nursing Homes;
- Expanding Home and Community-Based Services;
- The importance of maintaining family residences
- Consolidating state long term care systems
- Assuring a single point of entry into the long term care system.

5. Review and report back on the Center for Metropolitan Area Health Policy Study (November, 1995) on The Relationship Between Certificate of Need, Long Term Care and Medicaid Expenditures: A National Analysis. This is a national in-depth study on the history of CON laws; the current state CON policies; the impact of CON moratorium on bed growth, Medicaid expenditures and Medicaid reimbursement methods. The report concludes a need for CON requirements for long term care, but opens the door for review and debate of the need for CON requirements for acute care, particularly under managed care reimbursement systems.

Sincerely,



Harlan R. Knudson  
President/CEO

~~"I'm sure the vets could tell you more about their physical condition, but it's all mental," he said.~~

~~The Anchorage Daily News~~  
**Anchorage Daily News** 3/96

CARING WHERE CARE IS NEEDED  
PROGRAM TAKES ON 2 PROBLEMS AT ONCE

By DAVID HULEN  
Daily News reporter

CHEVAK - With a blizzard howling across the tundra, Maria Slats slips on a pair of snow bibs and a parka, then picks up a daypack and trudges across the village to work. Today, as she does every weekday afternoon, she heads for the house of Mary Chimeralrea, an elder who lives in a boxy little house in the middle of the village.

"Cangacit?" says Slats as she steps inside, speaking in the Cup'ik dialect of the Bering Sea coast. How are you?

Four months ago, Slats was a welfare mother, relying on a monthly check and food stamps to support herself and three kids. Now, she's part of an unusual new program that is training and hiring village welfare recipients to provide home care for elderly Bush residents.

Developed in recent months by a group of state and regional agencies, the program is aimed at two of rural Alaska's toughest problems - heavy dependence on public assistance in many villages and a rapidly growing elderly population in need of care.

Chimeralrea, a slight woman in a faded blue-print kuspuk, answers Slats' question in a near-whisper.

"She said she's doing fine today," Slats translates. "She has a slight cold and her eyes are red today. But she's doing OK."

Chimeralrea is frail and old. No one is sure exactly how old, but she's thought to be in her early- to mid-90s. She has trouble seeing, gets tired easily and moves slowly through her house, which she shares with a grown son who works during the day at the tribal council.

Slats steps into the house, past two dead ducks on the living room floor, a gift for the old woman from a relative. For the next two hours, she sits and talks with Chimeralrea, washes her dishes, reminds her to take her medicine.

The program started last fall. With \$147,000 in federal job-training money and matching state funds, a group of state and regional agencies recruited about two dozen villagers in the

Interior and here in Southwest Alaska as part of a pilot program to help people off public assistance and provide care for elders.

"We were trying to hit two problems at once," said Patricia Nault, an official with the state Department of Health and Social Services.

After being screened by the regional Native health agencies, the recruits go through three weeks of training in hubs such as Bethel or Fairbanks to be certified nursing assistants. Then they head home and go to work. They're each assigned elders who've been evaluated by nurses, and a care plan is drawn up. The aides check in several times a week with supervisors in Bethel or Fairbanks.

The aides' salaries - \$11.05 an hour - are paid for primarily with federal Medicaid funds, which pays for similar programs for low-income residents in other parts of the country.

Home care programs for elderly people have been growing around in the country as an alternative to nursing homes. Here in Alaska, several Native health agencies have made keeping elders home a priority, and several home-care programs have been set up. But recruiting aides has been difficult and training expensive. The new program has provided money for training sessions out in the regions. Planners hope to expand it to other areas of the state.

The problem is relatively new. As modern health care became more available in the Bush over the past 30 years, the village elderly population has grown steadily. But there's been a cost. While people are living longer than ever, many elders experience the same difficulties as elderly people anywhere - loss of mobility, higher risk of stroke and cancer and other health problems, Alzheimer's disease, neglect and loneliness.

Some villagers are skeptical of the home-care program, arguing that indigenous cultures with long histories of respect for elders shouldn't need government-paid workers to care for them. But as a practical matter, health agencies say, many families can't care for their elderly parents and grandparents, or need help doing it.

Elders are sometimes sent to nursing homes in Anchorage or Fairbanks, but some wind up miserable, according to villagers and rural health care workers. No one speaks their language. They can't eat their own foods. The surroundings are alien.

"The elders want to be at home in their own villages, around their families and people they know," said Ruth Oltoff, home-care coordinator for the Bethel-based Yukon-Kuskokwim Health Corp.

"They don't want to move to Anchorage or even Bethel. But the logistics in the villages of hauling water and honeybuckets and

preparing food, and then you get health problems on top of that, it makes it very difficult for a family unless they're going to spend 24 hours a day doing it."

Chevak, with about 600 people, has three home-care aides who've been working since December, caring for between six and 10 elders. All the aides have gone off welfare. It's one of nine villages in the Yukon-Kuskokwim Delta with the program. It expands to another dozen-or-so villages in the Y-K region next month, and at least another dozen communities there want it.

What the aides do with their elders - they call them patients or clients - varies depending on what the person needs.

"With her, sometimes I just sit and talk with her," says Slat as she cleans Chimeralrea's kitchen counter. "I'll just ask her things like, 'Have you washed your face today?' I'll help her with her household chores 'cause she gets very tired. But I also just talk with her. I may be the only person who visits her today. It brightens up her day just to have someone visit. She brightens up my day, too. She's such a jolly person. I've learned so much from her."

Sometimes Chimeralrea tells stories, of growing up in sod houses in a settlement that no longer exists, of a lifetime of traditional subsistence living. Sometimes she sings old Yup'ik songs that tell stories about a world that doesn't exist any more.

"She had a lot of kids but most of her kids have passed away," Slat says. "She remembers when there was no Chevak, just tundra here."

Other elders require much more attention.

Two houses away, another of the Chevak home-care aides, Maggie Atcherian, sits with 90-something elder Mary Friday - bed-bound, partially blind, paralyzed on her left side from a stroke. She lives with an adopted grown daughter and her children, and in recent weeks has spent her life in a bed in a corner of the living room, next to a big window looking out on the village. When she's not sleeping, she sits up in the bed, her head bent over her knees, for hours at a time. Mary Friday whispers that she's cold, and Atcherian wraps her in a sweater. She feeds her. Atcherian takes dried herring in seal oil and peels off the skin and tears the fish into bite-sized chunks. She combs Friday's hair. Atcherian changes the dressing on a bed sore, helps her with a bedpan, gives her a bath.

Friday slipped into a coma several days later, and died on Valentine's Day.

The work is tough and can be lonely and depressing. Burnout is common among home-care workers nationally. Some elders don't