

**ALASKA LEGISLATURE**

**1956**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000**

that it will assert its claim against annual state payments beginning after the Year 2000 payment.

- **ALASKA'S RESPONSE TO THREAT: Alaska's Objectives** - The State had four primary objectives when it brought suit against the tobacco industry: (1) to end the industry's targeting of Alaska's children as new consumers for its products; (2) to force the industry to disclose the harmful effects of smoking and decades of research demonstrating that tobacco kills; (3) to thwart the industry's apparent efforts to prevent the development of a safer product; and (4) to require the industry to pay for the harm it already has caused and, in the future, fund public health programs directed at alleviating the related public health concerns.
- **Alaska Sued to Protect Alaskans:** Alaska brought suit to protect Alaskans and to protect the fiscal integrity of the state's Medicaid program against future smoking-related treatment costs. Unlike other states, Alaska did not specifically plead a federal Medicaid recoupment claim in state superior court. Collecting federal dollars is the responsibility of HCFA and the U.S. Department of Justice. The U.S. Department of Justice declined to sue the tobacco industry on behalf of HCFA, and HCFA provided no support to the states during the litigation.
  - **First Proposed Settlement and Congress vs. State Settlement:** The first settlement was signed by the states and tobacco industry on June 20, 1997. It called for the tobacco industry to make payments to the states and fund federal enforcement programs totaling \$368.5 billion over 25 years. This settlement also required congressional approval, which did not occur. Accordingly, the states returned to litigation and resumed negotiations with the industry on their own. The litigation and resumed negotiations resulted in the second state settlement of November 23, 1998. HCFA could have acted along with the states to protect its rights during the second settlement process, but chose not to.
  - **Use of Settlement Funds:** A key provision of the McCain Bill in the 105<sup>th</sup> Congress provided that if states directed 50 percent of the settlement money (of the proposed 1997 settlement) to supplement but not supplant existing health care programs, HCFA could not assert its claim for recoupment. Although the McCain Bill did not pass and the states take the position that all settlement dollars are state funds, many states are abiding by the provisions of the McCain Bill (spending no less than 50 percent to supplement health care-related programs) to protect against recoupment by the federal government. Governor Knowles' proposal for spending tobacco settlement proceeds on annualized payments for Head Start, Healthy Families, and tobacco prevention programs will provide a strong argument against recoupment by HCFA.

- **Recent Development: SB 346:** On February 3, 1999, U.S. Senator Frank Murkowski and U.S. Senator Kay Bailey Hutchinson co-sponsored SB 346. SB 346 would protect all the states' settlement dollars from HCFA's attempted recoupment.

## LEGISLATION

- **MODEL STATUTE:** The state is not required to pass the model statute included in the settlement to receive settlement payments. However, if the state does not pass the model statute, the state will risk a possible reduction in payments under the nonparticipating manufacturers' payment (NPM) reduction formula of the settlement. The settlement provides for an adjustment to the state's payments if the participating manufacturers experience a disadvantage and lose market share for sales of their tobacco products to other nonparticipating manufacturers as a result of the marketing restrictions, payments, and other restrictions in the settlement agreement.
- **NPM Risk Low In Alaska** - At this point, the risk to Alaska of a non-participating manufacturer reduction is minimal, given that many of the very small tobacco product manufacturers have decided to sign on to the settlement, which reduces the risk that they will take market share away from the largest companies. The risk is further lowered by the fact that the small tobacco product manufacturers only represent 1-2 percent of the U.S. market, making it unlikely that sales of their products will trigger the nonparticipating manufacturer reductions.
- **NPM Risk Can Be Eliminated** - The risk of nonparticipating manufacturer reductions can be eliminated by passage of the model statute (SB 84/HB 102). Under the terms of the settlement agreement, if the state passes the model statute and enforces it, the state will be exempt from any payment reductions even if the settlement was a significant factor contributing to the participating manufacturers' loss of market share.

## CONCLUSION

In the upcoming months, Law will be working closely with the Alaska Departments of Revenue and Health and Social Services, and the federal Alcohol, Tobacco and Firearms investigators to assure full compliance with state tax laws. Law is also working closely at the direction of the governor with members of Alaska's congressional delegation to protect the state settlement from HCFA.

*Prepared by Alaska Department of Law  
March 7, 1999*

MASTER SETTLEMENT AGREEMENT

Participating Manufacturers pursuant to this subsection (c)(2) shall be subject to the Inflation Adjustment, the Volume Adjustment, the NPM Adjustment, the offset for miscalculated or disputed payments described in subsection XI(i), the Federal Tobacco Legislation Offset, the Litigating Releasing Parties Offset, and the offsets for claims over described in subsections XII(a)(4)(B) and XII(a)(8). Such payments shall also be subject to the Non-Settling States Reduction; provided, however, that for purposes of payments due pursuant to this subsection (c)(2) (and corresponding payments by Subsequent Participating Manufacturers under subsection IX(i)), the Non-Settling States Reduction shall be derived as follows: (A) the payments made by the Original Participating Manufacturers pursuant to this subsection (c)(2) shall be allocated among the Settling States on a percentage basis to be determined by the Settling States pursuant to the procedures set forth in Exhibit U, and the resulting allocation percentages disclosed to the Escrow Agent, the Independent Auditor and the Original Participating Manufacturers not later than June 30, 1999; and (B) the Non-Settling States Reduction shall be based on the sum of the Allocable Shares so established pursuant to subsection (c)(2)(A) for those States that were Settling States as of the MSA Execution Date and as to which this Agreement has terminated as of the date 15 days before the payment in question is due.

(d) Non-Participating Manufacturer Adjustment.

(1) Calculation of NPM Adjustment for Original Participating Manufacturers. To protect the public health gains achieved by this Agreement, certain payments made pursuant to this Agreement shall be subject to an NPM

Adjustment. Payments by the Original Participating Manufacturers to which the NPM Adjustment applies shall be adjusted as provided below:

(A) Subject to the provisions of subsections (d)(1)(C), (d)(1)(D) and (d)(2) below, each Allocated Payment shall be adjusted by subtracting from such Allocated Payment the product of such Allocated Payment amount multiplied by the NPM Adjustment Percentage. The "NPM Adjustment Percentage" shall be calculated as follows:

(i) If the Market Share Loss for the year immediately preceding the year in which the payment in question is due is less than or equal to 0 (zero), then the NPM Adjustment Percentage shall equal zero.

(ii) If the Market Share Loss for the year immediately preceding the year in which the payment in question is due is greater than 0 (zero) and less than or equal to  $16 \frac{2}{3}$  percentage points, then the NPM Adjustment Percentage shall be equal to the product of (x) such Market Share Loss and (y) 3 (three).

(iii) If the Market Share Loss for the year immediately preceding the year in which the payment in question is due is greater than  $16 \frac{2}{3}$  percentage points, then the NPM Adjustment Percentage shall be equal to the sum of (x) 50 percentage points and (y) the product of (1) the Variable Multiplier and (2) the result of such Market Share Loss minus  $16 \frac{2}{3}$  percentage points.

(B) Definitions:

(i) "Base Aggregate Participating Manufacturer Market Share" means the result of (x) the sum of the applicable Market Shares (the applicable Market Share to be that for 1997) of all present and former Tobacco Product Manufacturers that were Participating Manufacturers during the entire calendar year immediately preceding the year in which the payment in question is due minus (y) 2 (two) percentage points.

(ii) "Actual Aggregate Participating Manufacturer Market Share" means the sum of the applicable Market Shares of all present and former Tobacco Product Manufacturers that were Participating Manufacturers during the entire calendar year immediately preceding the year in which the payment in question is due (the applicable Market Share to be that for the calendar year immediately preceding the year in which the payment in question is due).

(iii) "Market Share Loss" means the result of (x) the Base Aggregate Participating Manufacturer Market Share minus (y) the Actual Aggregate Participating Manufacturer Market Share.

(iv) "Variable Multiplier" equals 50 percentage points divided by the result of (x) the Base Aggregate Participating Manufacturer Market Share minus (y)  $16 \frac{2}{3}$  percentage points.

(C) On or before February 2 of each year following a year in which there was a Market Share Loss greater than zero, a nationally recognized firm of economic consultants (the "Firm") shall determine whether the disadvantages experienced as a result of the provisions of this Agreement were a significant factor contributing to the Market Share Loss for the year in question. If the Firm determines that the disadvantages experienced as a result of the provisions of this Agreement were a significant factor contributing to the Market Share Loss for the year in question, the NPM Adjustment described in subsection IX(d)(1) shall apply. If the Firm determines that the disadvantages experienced as a result of the provisions of this Agreement were not a significant factor contributing to the Market Share Loss for the year in question, the NPM Adjustment described in subsection IX(d)(1) shall not apply. The Original Participating Manufacturers, the Settling States, and the Attorneys General for the Settling States shall cooperate to ensure that the determination described in this subsection (1)(C) is timely made. The Firm shall be acceptable to (and the principals responsible for this assignment shall be acceptable to) both the Original Participating Manufacturers and a majority of those Attorneys General who are both the Attorney General of a Settling State and a member of the NAAG executive committee at the time in question (or in the event no such firm or no such principals shall be acceptable to such parties, National Economic Research Associates, Inc., or its successors by merger, acquisition or otherwise ("NERA"), acting

through a principal or principals acceptable to such parties, if such a person can be identified and, if not, acting through a principal or principals identified by NERA, or a successor firm selected by the CPR Institute for Dispute Resolution). As soon as practicable after the MSA Execution Date, the Firm shall be jointly retained by the Settling States and the Original Participating Manufacturers for the purpose of making the foregoing determination, and the Firm shall provide written notice to each Settling State, to NAAG, to the Independent Auditor and to each Participating Manufacturer of such determination. The determination of the Firm with respect to this issue shall be conclusive and binding upon all parties, and shall be final and non-appealable. The reasonable fees and expenses of the Firm shall be paid by the Original Participating Manufacturers according to their Relative Market Shares. Only the Participating Manufacturers and the Settling States, and their respective counsel, shall be entitled to communicate with the Firm with respect to the Firm's activities pursuant to this subsection (1)(C).

(D) No NPM Adjustment shall be made with respect to a payment if the aggregate number of Cigarettes shipped in or to the fifty United States, the District of Columbia and Puerto Rico in the year immediately preceding the year in which the payment in question is due by those Participating Manufacturers that had become Participating Manufacturers prior to 14 days after the MSA Execution Date is greater than the aggregate number of Cigarettes shipped in or to the fifty United States, the

District of Columbia, and Puerto Rico in 1997 by such Participating Manufacturers (and any of their Affiliates that made such shipments in 1997, as demonstrated by certified audited statements of such Affiliates' shipments, and that do not continue to make such shipments after the MSA Execution Date because the responsibility for such shipments has been transferred to one of such Participating Manufacturers).

Measurements of shipments for purposes of this subsection (D) shall be made in the manner prescribed in subsection II(mm); in the event that such shipment data is unavailable for any Participating Manufacturer for 1997, such Participating Manufacturer's shipment volume for such year shall be measured in the manner prescribed in subsection II(z).

(2) Allocation among Settling States of NPM Adjustment for Original Participating Manufacturers.

(A) The NPM Adjustment set forth in subsection (d)(1) shall apply to the Allocated Payments of all Settling States, except as set forth below.

(B) A Settling State's Allocated Payment shall not be subject to an NPM Adjustment: (i) if such Settling State continuously had a Qualifying Statute (as defined in subsection (2)(E) below) in full force and effect during the entire calendar year immediately preceding the year in which the payment in question is due, and diligently enforced the provisions of such statute during such entire calendar year; or (ii) if such Settling State enacted the Model Statute (as defined in subsection (2)(E) below) for the first time during the calendar year immediately preceding the year in

which the payment in question is due, continuously had the Model Statute in full force and effect during the last six months of such calendar year, and diligently enforced the provisions of such statute during the period in which it was in full force and effect.

(C) The aggregate amount of the NPM Adjustments that would have applied to the Allocated Payments of those Settling States that are not subject to an NPM Adjustment pursuant to subsection (2)(B) shall be reallocated among all other Settling States pro rata in proportion to their respective Allocable Shares (the applicable Allocable Shares being those listed in Exhibit A), and such other Settling States' Allocated Payments shall be further reduced accordingly.

(D) This subsection (2)(D) shall apply if the amount of the NPM Adjustment applied pursuant to subsection (2)(A) to any Settling State plus the amount of the NPM Adjustments reallocated to such Settling State pursuant to subsection (2)(C) in any individual year would either (i) exceed such Settling State's Allocated Payment in that year, or (ii) if subsection (2)(F) applies to the Settling State in question, exceed 65% of such Settling State's Allocated Payment in that year. For each Settling State that has an excess as described in the preceding sentence, the excess amount of NPM Adjustment shall be further reallocated among all other Settling States whose Allocated Payments are subject to an NPM Adjustment and that do not have such an excess, pro rata in proportion to their respective Allocable Shares, and such other Settling States' Allocated

Payments shall be further reduced accordingly. The provisions of this subsection (2)(D) shall be repeatedly applied in any individual year until either (i) the aggregate amount of NPM Adjustments has been fully reallocated or (ii) the full amount of the NPM Adjustments subject to reallocation under subsection (2)(C) or (2)(D) cannot be fully reallocated in any individual year as described in those subsections because (x) the Allocated Payment in that year of each Settling State that is subject to an NPM Adjustment and to which subsection (2)(F) does not apply has been reduced to zero, and (y) the Allocated Payment in that year of each Settling State to which subsection (2)(F) applies has been reduced to 35% of such Allocated Payment.

(E) A "Qualifying Statute" means a Settling State's statute, regulation, law and/or rule (applicable everywhere the Settling State has authority to legislate) that effectively and fully neutralizes the cost disadvantages that the Participating Manufacturers experience vis-à-vis Non-Participating Manufacturers within such Settling State as a result of the provisions of this Agreement. Each Participating Manufacturer and each Settling State agree that the model statute in the form set forth in Exhibit T (the "Model Statute"), if enacted without modification or addition (except for particularized state procedural or technical requirements) and not in conjunction with any other legislative or regulatory proposal, shall constitute a Qualifying Statute. Each Participating Manufacturer agrees to support the enactment of such Model

Statute if such Model Statute is introduced or proposed (i) without modification or addition (except for particularized procedural or technical requirements), and (ii) not in conjunction with any other legislative proposal.

(F) If a Settling State (i) enacts the Model Statute without any modification or addition (except for particularized state procedural or technical requirements) and not in conjunction with any other legislative or regulatory proposal, (ii) uses its best efforts to keep the Model Statute in full force and effect by, among other things, defending the Model Statute fully in any litigation brought in state or federal court within such Settling State (including litigating all available appeals that may affect the effectiveness of the Model Statute), and (iii) otherwise complies with subsection (2)(B), but a court of competent jurisdiction nevertheless invalidates or renders unenforceable the Model Statute with respect to such Settling State, and but for such ruling the Settling State would have been exempt from an NPM Adjustment under subsection (2)(B), then the NPM Adjustment (including reallocations pursuant to subsections (2)(C) and (2)(D)) shall still apply to such Settling State's Allocated Payments but in any individual year shall not exceed 65% of the amount of such Allocated Payments.

(G) In the event a Settling State proposes and/or enacts a statute, regulation, law and/or rule (applicable everywhere the Settling State has authority to legislate) that is not the Model Statute and asserts that such

statute, regulation, law and/or rule is a Qualifying Statute, the Firm shall be jointly retained by the Settling States and the Original Participating Manufacturers for the purpose of determining whether or not such statute, regulation, law and/or rule constitutes a Qualifying Statute. The Firm shall make the foregoing determination within 90 days of a written request to it from the relevant Settling State (copies of which request the Settling State shall also provide to all Participating Manufacturers and the Independent Auditor), and the Firm shall promptly thereafter provide written notice of such determination to the relevant Settling State, NAAG, all Participating Manufacturers and the Independent Auditor. The determination of the Firm with respect to this issue shall be conclusive and binding upon all parties, and shall be final and non-appealable; provided, however, (i) that such determination shall be of no force and effect with respect to a proposed statute, regulation, law and/or rule that is thereafter enacted with any modification or addition; and (ii) that the Settling State in which the Qualifying Statute was enacted and any Participating Manufacturer may at any time request that the Firm reconsider its determination as to this issue in light of subsequent events (including, without limitation, subsequent judicial review, interpretation, modification and/or disapproval of a Settling State's Qualifying Statute, and the manner and/or the effect of enforcement of such Qualifying Statute). The Original Participating Manufacturers shall severally pay their Relative Market Shares of the reasonable fees and expenses of the Firm. Only the

Participating Manufacturers and Settling States, and their respective counsel, shall be entitled to communicate with the Firm with respect to the Firm's activities pursuant to this subsection (2)(G).

(H) Except as provided in subsection (2)(F), in the event a Qualifying Statute is enacted within a Settling State and is thereafter invalidated or declared unenforceable by a court of competent jurisdiction, otherwise rendered not in full force and effect, or, upon reconsideration by the Firm pursuant to subsection (2)(G) determined not to constitute a Qualifying Statute, then such Settling State's Allocated Payments shall be fully subject to an NPM Adjustment unless and until the requirements of subsection (2)(B) have been once again satisfied.

(3) Allocation of NPM Adjustment among Original Participating Manufacturers. The portion of the total amount of the NPM Adjustment to which the Original Participating Manufacturers are entitled in any year that can be applied in such year consistent with subsection IX(d)(2) (the "Available NPM Adjustment") shall be allocated among them as provided in this subsection IX(d)(3).

(A) The "Base NPM Adjustment" shall be determined for each Original Participating Manufacturer in such year as follows:

(i) For those Original Participating Manufacturers whose Relative Market Shares in the year immediately preceding the year in which the NPM Adjustment in question is applied exceed or are

equal to their respective 1997 Relative Market Shares, the Base NPM Adjustment shall equal 0 (zero).

(ii) For those Original Participating Manufacturers whose Relative Market Shares in the year immediately preceding the year in which the NPM Adjustment in question is applied are less than their respective 1997 Relative Market Shares, the Base NPM Adjustment shall equal the result of (x) the difference between such Original Participating Manufacturer's Relative Market Share in such preceding year and its 1997 Relative Market Share multiplied by both (y) the number of individual Cigarettes (expressed in thousands of units) shipped in or to the United States, the District of Columbia and Puerto Rico by all the Original Participating Manufacturers in such preceding year (determined in accordance with subsection II(mm)) and (z) \$20 per each thousand units of Cigarettes (as this number is adjusted pursuant to subsection IX(d)(3)(C) below).

(iii) For those Original Participating Manufacturers whose Base NPM Adjustment, if calculated pursuant to subsection (ii) above, would exceed \$300 million (as this number is adjusted pursuant to subsection IX(d)(3)(C) below), the Base NPM Adjustment shall equal \$300 million (or such adjusted number, as provided in subsection IX(d)(3)(C) below).

(B) The share of the Available NPM Adjustment each Original Participating Manufacturer is entitled to shall be calculated as follows:

(i) If the Available NPM Adjustment the Original Participating Manufacturers are entitled to in any year is less than or equal to the sum of the Base NPM Adjustments of all Original Participating Manufacturers in such year, then such Available NPM Adjustment shall be allocated among those Original Participating Manufacturers whose Base NPM Adjustment is not equal to 0 (zero) pro rata in proportion to their respective Base NPM Adjustments.

(ii) If the Available NPM Adjustment the Original Participating Manufacturers are entitled to in any year exceeds the sum of the Base NPM Adjustments of all Original Participating Manufacturers in such year, then (x) the difference between such Available NPM Adjustment and such sum of the Base NPM Adjustments shall be allocated among the Original Participating Manufacturers pro rata in proportion to their Relative Market Shares (the applicable Relative Market Shares to be those in the year immediately preceding such year), and (y) each Original Participating Manufacturer's share of such Available NPM Adjustment shall equal the sum of (1) its Base NPM Adjustment for such year, and (2) the amount allocated to such Original Participating Manufacturer pursuant to clause (x).

(iii) If an Original Participating Manufacturer's share of the Available NPM Adjustment calculated pursuant to subsection IX(d)(3)(B)(i) or IX(d)(3)(B)(ii) exceeds such Original Participating Manufacturer's payment amount to which such NPM Adjustment applies (as such payment amount has been determined pursuant to step B of clause "Seventh" of subsection IX(j)), then (1) such Original Participating Manufacturer's share of the Available NPM Adjustment shall equal such payment amount, and (2) such excess shall be reallocated among the other Original Participating Manufacturers pro rata in proportion to their Relative Market Shares.

(C) Adjustments:

(i) For calculations made pursuant to this subsection IX(d)(3) (if any) with respect to payments due in the year 2000, the number used in subsection IX(d)(3)(A)(ii)(z) shall be \$20 and the number used in subsection IX(d)(3)(A)(iii) shall be \$300 million. Each year thereafter, both these numbers shall be adjusted upward or downward by multiplying each of them by the quotient produced by dividing (x) the average revenue per Cigarette of all the Original Participating Manufacturers in the year immediately preceding such year, by (y) the average revenue per Cigarette of all the Original Participating Manufacturers in the year immediately preceding such immediately preceding year.

(ii) For purposes of this subsection, the average revenue per Cigarette of all the Original Participating Manufacturers in any year shall equal (x) the aggregate revenues of all the Original Participating Manufacturers from sales of Cigarettes in the fifty United States, the District of Columbia and Puerto Rico after Federal excise taxes and after payments pursuant to this Agreement and the tobacco litigation Settlement Agreements with the States of Florida, Mississippi, Minnesota and Texas (as such revenues are reported to the United States Securities and Exchange Commission ("SEC") for such year (either independently by the Original Participating Manufacturer or as part of consolidated financial statements reported to the SEC by an Affiliate of the Original Participating Manufacturers) or, in the case of an Original Participating Manufacturer that does not report income to the SEC, as reported in financial statements prepared in accordance with United States generally accepted accounting principles and audited by a nationally recognized accounting firm), divided by (y) the aggregate number of the individual Cigarettes shipped in or to the United States, the District of Columbia and Puerto Rico by all the Original Participating Manufacturers in such year (determined in accordance with subsection II(mm)).

(D) In the event that in the year immediately preceding the year in which the NPM Adjustment in question is applied both (x) the Relative

Market Share of Lorillard Tobacco Company (or of its successor) ("Lorillard") was less than or equal to 20.0000000%, and (y) the number of individual Cigarettes shipped in or to the United States, the District of Columbia and Puerto Rico by Lorillard (determined in accordance with subsection II(mm)) (for purposes of this subsection (D), "Volume") was less than or equal to 70 billion, Lorillard's and Philip Morris Incorporated's (or its successor's) ("Philip Morris") shares of the Available NPM Adjustment calculated pursuant to subsections (3)(A)-(C) above shall be further reallocated between Lorillard and Philip Morris as follows (this subsection (3)(D) shall not apply in the year in which either of the two conditions specified in this sentence is not satisfied):

(i) Notwithstanding subsections (A)-(C) of this subsection (c)(3), but subject to further adjustment pursuant to subsections (D)(ii) and (D)(iii) below, Lorillard's share of the Available NPM Adjustment shall equal its Relative Market Share of such Available NPM Adjustment (the applicable Relative Market Share to be that in the year immediately preceding the year in which such NPM Adjustment is applied). The dollar amount of the difference between the share of the Available NPM Adjustment Lorillard is entitled to pursuant to the preceding sentence and the share of the Available NPM Adjustment it would be entitled to in the same year pursuant to subsections (d)(3)(A)-(C) shall be reallocated to Philip Morris and used to decrease or increase, as the case may be,

Philip Morris's share of the Available NPM Adjustment in such year calculated pursuant to subsections (d)(3)(A)-(C).

(ii) In the event that in the year immediately preceding the year in which the NPM Adjustment in question is applied either (x) Lorillard's Relative Market Share was greater than 15.0000000% (but did not exceed 20.0000000%), or (y) Lorillard's Volume was greater than 50 billion (but did not exceed 70 billion), or both, Lorillard's share of the Available NPM Adjustment calculated pursuant to subsection (d)(3)(D)(i) shall be reduced by a percentage equal to the greater of (1) 10.0000000% for each percentage point (or fraction thereof) of excess of such Relative Market Share over 15.0000000% (if any), or (2) 2.5000000% for each billion (or fraction thereof) of excess of such Volume over 50 billion (if any). The dollar amount by which Lorillard's share of the Available NPM Adjustment is reduced in any year pursuant to this subsection (D)(ii) shall be reallocated to Philip Morris and used to increase Philip Morris's share of the Available NPM Adjustment in such year.

(iii) In the event that in any year a reallocation of the shares of the Available NPM Adjustment between Lorillard and Philip Morris pursuant to this subsection (d)(3)(D) results in Philip Morris's share of the Available NPM Adjustment in such year exceeding the greater of (x) Philip Morris's Relative Market Share

of such Available NPM Adjustment (the applicable Relative Market Share to be that in the year immediately preceding such year). or (y) Philip Morris's share of the Available NPM Adjustment in such year calculated pursuant to subsections (d)(3)(A)-(C), Philip Morris's share of the Available NPM Adjustment in such year shall be reduced to equal the greater of (x) or (y) above. In such instance, the dollar amount by which Philip Morris's share of the Available NPM Adjustment is reduced pursuant to the preceding sentence shall be reallocated to Lorillard and used to increase Lorillard's share of the Available NPM Adjustment in such year.

(iv) In the event that either Philip Morris or Lorillard is treated as a Non-Participating Manufacturer for purposes of this subsection IX(d)(3) pursuant to subsection XVIII(w)(2)(A), this subsection (3)(D) shall not be applied, and the Original Participating Manufacturers' shares of the Available NPM Adjustment shall be determined solely as described in subsections (3)(A)-(C).

(4) NPM Adjustment for Subsequent Participating Manufacturers.

Subject to the provisions of subsection IX(i)(3), a Subsequent Participating Manufacturer shall be entitled to an NPM Adjustment with respect to payments due from such Subsequent Participating Manufacturer in any year during which an NPM Adjustment is applicable under subsection (d)(1) above to payments due

**HB**

**102**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/21/99

FURTHER:

5/12/99

DATE TURNED  
IN TO OFFICE:

12 May 1999

Finance Committee considered

HOUSE BILL NO. 102

CIGARETTE SALES: AGREEMENT/ESCROW

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

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 <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>C. C. C. C.</i>	X	<i>John E. Kelly</i>	✓		
<i>John E. Kelly</i>		<i>John E. Kelly</i>	✓		
<i>John E. Kelly</i>	✓	<i>John E. Kelly</i>	✓		
Co-Chair: <i>John E. Kelly</i>	✓	Co-Chair:			
Co-Chair:		Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

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

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal
Law	4/21/99	✓	
Revenue	4/21/99	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

Version: HB 102  
 (H) Publish Date: 2/19/99

STATE OF ALASKA  
 1999 LEGISLATIVE SESSION

8/12/99

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Law  
 Title "... to a settlement agreement between BRU Civil Division  
certain tobacco product manufacturers and the state ..." Component Fair Business Practices  
 Sponsor Rules Committee  
 Requester Governor Component Serial No. 2206

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<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 (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation implements a provision of the Master Settlement Agreement (MSA) between 46 states, including Alaska, and certain United States tobacco product manufacturers. That agreement, which was a final settlement of the states' litigation with the major tobacco manufacturers, was signed on November 23, 1998. Under the terms of the settlement, Alaska will receive \$670 million over the next 25 years to help offset the financial burdens imposed on the state by cigarette smoking. In addition to the monetary provisions, the settlement requires fundamental and far-ranging changes in the tobacco industry's business practices, advertising, and marketing.

This legislation, referred to in the MSA as the "model (or qualifying) statute," creates a reserve fund for nonparticipating manufacturers to pay future claims and is intended to level the playing field between the manufacturers who participated in the MSA (or sign on to it in the future) and those who did not. It is intended to neutralize the cost

Prepared by Joan M. Kasson *[Signature]*  
 Division Attorney General's Office  
 Approved by Commissioner Bruce M. Botelho, Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date/Time 2/8/99, 8:37 AM  
 Date 2/8/99

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**ANALYSIS CONTINUATION**

disadvantages that the participating manufacturers experience (relative to the nonparticipating manufacturers) as a result of the MSA. It requires the nonparticipating manufacturers that sell tobacco products in the state and are not signators of the MSA to establish escrow accounts to pay for qualified claims for health-related concerns tied to their sales of tobacco products in the state.

Alaska does not need to pass the model/qualifying statute in order to receive payments under the Master Settlement Agreement, but failure to enact it could result in a significant reduction (as much as 65 percent) in the state's allotment under the agreement in the future. If a state does not pass the model statute, the MSA provides for an adjustment to that state's payments if the participating manufacturers, as a result of the marketing restrictions, payments, and other restrictions in the settlement, experience a disadvantage and lose market share for sales of their tobacco products to nonparticipating manufacturers. However, under the terms of the MSA, if a state passes the model statute and enforces it, it will be exempt from any payment reductions, even if the settlement was a significant factor contributing to the participating manufacturers' loss of market share.

Under terms of the legislation, a tobacco product manufacturer selling cigarettes in the state must either become a participating manufacturer or place a set amount into an escrow account for each unit sold in the state. The Commissioner of Revenue will be responsible for receiving certification that the manufacturer is in compliance with the terms of the legislation, and the Attorney General will be responsible for bringing a civil action against a non-complying manufacturer. It is impossible to predict whether nonparticipating manufacturers will enter the Alaska market and whether there will be a need for the Attorney General to take legal action against companies that do not comply with the terms of the statute. At this time, however, we do not anticipate additional costs related to enforcing the legislation.

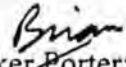
TONY KNOWLES  
GOVERNOR  
governor@gov.state.ak.us

  
STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB 102  
P.O. Box 11000  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532  
www.gov.state.ak.us

February 19, 1999

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

  
Dear Speaker Porter:

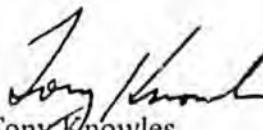
Cigarette smoking presents serious public health concerns to the state and its citizens. Recently, this Administration, along with virtually every other state, reached a monumental master settlement agreement with the leading tobacco producers. That agreement was approved by the Alaska Superior Court on February 9, 1999. Under the terms of the settlement, it is anticipated the State of Alaska will receive \$670 million over the next 25 years and will benefit from important restrictions on advertising and other matters to address public health concerns.

While this is an important step forward in addressing this significant health problem, the states that are parties to the agreement wanted to be sure the problem was more comprehensively addressed. This bill I transmit today would help do that by placing some requirements on tobacco product manufacturers who sell cigarettes in the state but do not sign the settlement agreement.

Under this bill, the non-participating tobacco manufacturers will take responsibility for their share of the financial burden caused by their products by setting up escrow accounts to cover qualified claims for health-related concerns. The availability of the escrow money will better ensure a source of compensation for Alaskans while preventing those manufacturers from deriving large, short-term profits from sales in this state and then becoming judgment-proof before liability may arise. This bill is fair and puts all tobacco product manufacturers on an equal footing regarding cigarette sales in Alaska.

I urge your prompt and favorable action on this bill, as part of an overall solution to address this major public health concern.

Sincerely,

  
Tony Knowles  
Governor

# FISCAL NOTE

Version: HB 102

(H) Publish Date: 2/19/99

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

5/14/99

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Revenue  
 Title Federal Government Tobacco Settlement BRU Revenue Operations  
 Component Income and Excise Audit  
 Sponsor RLS  
 Requester Governor Component Serial No. 113

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

See attachment.

Prepared by Tim Cottongim, Appeals Officer  
 Division Income and Excise Audit  
 Approved by Wilson L. Condon  
 Commissioner  
 Agency Department of Revenue

Phone 465-3695  
 Date/Time February 5, 1999  
 Date February 5, 1999

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**COMMITTEE COPY**

**ALASKA DEPARTMENT OF REVENUE**  
*Income and Excise Audit Division*

Cigarette Escrow Account  
Draft 1-GB1036.A  
February 5, 1999  
Page 2 of 2

**BILL ANALYSIS**

**Section 1** describes the health consequences from smoking cigarettes, and the state's obligation to provide and pay for medical assistance to and for persons with health conditions associated with cigarette smoking. This section holds the tobacco product manufacturers responsible for the financial burdens imposed on the state by cigarette smoking, describes the Master Settlement Agreement reached with the leading tobacco product manufacturers, and discusses the intent of this legislation, which is to prevent non-signatory manufacturers from deriving short-term profits and from becoming judgement-proof before liability arises.

**Section 2** requires non-signatory manufacturers selling cigarettes in the state to either participate in the Master Settlement Agreement or place into a qualified escrow account by April 15 of each year an established amount for each cigarette sold in the state in the prior year. Funds in escrow will only be released: 1) to pay judgements or settlements from claims brought against the non-signatory manufacturer, 2) to the non-signatory manufacturer if payments placed in escrow exceed what would have been paid if the non-signatory manufacturer participated in the Master Settlement Agreement, or 3) to the non-signatory manufacturer after 25 years from the date of deposit. This section directs non-signatory manufacturers selling cigarettes in the state to certify that they are in compliance with the escrow requirements, and provides for civil actions if they fail to comply.

**Section 3** establishes an immediate effective date.

**OPERATING EXPENDITURES**

This bill will require the Department of Revenue to revise its tax forms to allow verification of the name of each manufacturer whose cigarettes are being sold in the state. We believe the costs of new forms and the accompanying data capture and computer program modifications can be absorbed into the existing budget.

**REVENUE**

This Act provides no new revenue to the state.

SENATE FINANCE COMMITTEE

SIGN-IN

HB 102-CIGARETTE SALES: AGREEMENT/ESCROW

NAME: Donny Gardner AIAG Sub./Bill No: 102

Co./Dept./Title: Dep't of Law Phone: 4682

Address: D. mand Courthouse 6th floor Zip: \_\_\_\_\_

Do you wish to testify? \_\_\_ Yes \_\_\_ No  Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify? \_\_\_ Yes \_\_\_ No \_\_\_ Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify? \_\_\_ Yes \_\_\_ No \_\_\_ Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify? \_\_\_ Yes \_\_\_ No \_\_\_ Respond to Questions

**HB**

**105**

HFIN

FILE

Catherine Reardon  
Division of Occupational Licensing, DCED  
January 31, 2000

## **CSHB 105, Licensing of Speech-Language Pathologists**

If the Legislature passes HB 105 with the proposed amendment to combine the speech-language pathologists and audiologist licensing programs for financial purposes, then the Division of Occupational Licensing anticipates initial license fees of \$315. In addition, there will be an initial application fee of \$150. Fees for future renewals may be significantly higher or lower depending of the actual cost of regulating the professions.

Adopted

1-LS0340\I.1  
Lauterbach  
1/28/00

AMENDMENT |

OFFERED IN THE HOUSE

TO: CSHB 105(L&C)

1 Page 1, following line 6:

2 Insert new bill sections to read:

3 \*\* Sec. 2. AS 08.01.065(c) is amended to read:

4 (c) Except as provided in (f) and (g) of this section, the department shall  
5 establish fee levels under (a) of this section so that the total amount of fees collected  
6 for an occupation approximately equals the actual regulatory costs for the occupation.  
7 The department shall annually review each fee level to determine whether the  
8 regulatory costs of each occupation are approximately equal to fee collections related  
9 to that occupation. If the review indicates that an occupation's fee collections and  
10 regulatory costs are not approximately equal, the department shall calculate fee  
11 adjustments and adopt regulations under (a) of this section to implement the  
12 adjustments. In January of each year, the department shall report on all fee levels and  
13 revisions for the previous year under this subsection to the office of management and  
14 budget. If a board regulates an occupation covered by this chapter, the department  
15 shall consider the board's recommendations concerning the occupation's fee levels and  
16 regulatory costs before revising fee schedules to comply with this subsection. In this  
17 subsection, "regulatory costs" means costs of the department that are attributable to  
18 regulation of an occupation plus

19 (1) all expenses of the board that regulates the occupation if the board  
20 regulates only one occupation;

21 (2) the expenses of a board that are attributable to the occupation if  
22 the board regulates more than one occupation.

23 \* Sec. 3. As 08.01.065 is amended by adding a new subsection to read:

24 (g) Notwithstanding (c) of this section, the department shall establish fee  
25 levels under (a) of this section so that the total amount of fees collected by the

1 department for all occupations regulated under AS 08.11 approximately equals the  
2 total regulatory costs of the department for all occupations regulated by the  
3 department under AS 08.11. The department shall set the fee levels for the issuance  
4 and renewal of licenses issued under AS 08.11 so that the fee levels are the same for  
5 all occupations regulated by the department under AS 08.11."

6 Renumber the following bill sections accordingly.

7 Renumber internal references to bill sections in accordance with this amendment. Below are  
8 all internal bill section references in this bill:

9 Page 10, line 10

10 Page 10, line 11

**FISCAL NOTE  
REPORTED OUT OF**

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

**BILL NO. CSHB 105(Fin)**

HFC 1/31/00

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Community & Econ. Dev.  
 Title An Act providing for the licensing of speech- BRU Occupational Licensing  
language pathologists; and providing for an effective date. Component Occupational Licensing  
 Sponsor Rep. Bunde  
 Requester House Finance Component Serial No. 2360

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

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	4.0	3.2	3.2	3.2	3.2	3.2
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	3.0	0.5	0.5	0.5	0.5	0.5
Supplies	0.5	0.0	0.0	0.0	0.0	0.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>7.5</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>11.2</b>	<b>0.0</b>	<b>7.4</b>	<b>0.0</b>	<b>7.4</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	7.5	3.7	3.7	3.7	3.7	3.7
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>7.5</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

CSHB 105(Fin) creates licensing of speech-language pathologists by the Department of Community and Economic Development. The division of occupational licensing anticipates existing staff will perform the licensing and investigative functions; however, like all licensing programs, time spent on this program will be based on positive timekeeping. The personal services costs reflected in this fiscal note are estimates of time that will be required to implement this new program. All costs will be covered by licensing fees. The estimated costs are explained on the attached page.

Prepared by Jennifer Strickler, Administrative Manager  
 Division Occupational Licensing  
 Approved by Commissioner Deborah B. Sedwick  
 Agency Community & Economic Development

Phone 465-2144  
 Date/Time 2/2/2000 9:50 AM  
 Date 2/2/00

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# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. CSHB 105(FIN)

ANALYSIS: (Continued)

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS FOR CSHB 105(FIN)

**PERSONAL SERVICES** **\$4.0**

Provide 1 month of an Occupational Licensing Examiner I position, Range 12, \$4.0.

**CONTRACTUAL SERVICES** **\$3.0**

Funding provides approximately 15 hours of AG legal time for regulations, license appeals, and discipline, \$1.5; and, printing, postage, communications, and advertising costs, \$1.5.

**SUPPLIES** **\$ .5**

To fund daily operating supplies of the program.

**TOTAL:** **\$7.5**

**REVENUE & FUND SOURCE:** Revenue will be generated by licensing fees sufficient to cover program costs. This legislation directs the department to combine the costs and revenue of the audiology and speech pathology programs for fee setting purposes and to charge the same license fees to both professions. Approximately 25 speech pathologists are expected to seek licensure and renew licenses biennially. There are currently 45 licensed audiologists. Licensing fees must cover direct costs plus approximately \$100 per licensee for division/department overhead for the two-year period. Based on 70 licensees and \$150 initial application fee, licensing fees are estimated to be \$315.00 for the first biennium. This figure does not incorporate any existing surplus or deficit from the audiology program. Audiology fees for the September 2000 renewal will be set before this bill goes into effect and will incorporate any audiology surplus or deficit. Fees for future license renewals will be identical for audiologists and speech pathologists and may be significantly higher or lower depending on the actual costs of regulating the professions.

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: January 26, 2000

FURTHER REFERRALS:

Date of Committee Action: 1/31/00

The FINANCE Committee considered:

HB 105

HOUSE BILL NO. 105

LICENSING SPEECH PATHOLOGY/AUDIOLOGY

"An Act providing for the licensing of speech-language pathologists; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 105 (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) DCED

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

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

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

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Edon Mulder</u> Mulder			X	
<u>Carole Theriault</u> Theriault			X	
<u>Bob Bunde</u> Bunde				
<u>John Foster</u> Foster			X	
<u>Paul Gusterman</u> Gusterman			X	
<u>Col 91 David Davies</u> Davies			X	
<u>Ben Grossendorf</u> Grossendorf			X	
<u>John Davis</u> Davis			X	
<u>W. Williams</u> Williams			X	

CHAIR'S SIGNATURE

Edon Mulder Carole Theriault

# FISCAL NOTE

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

**BILL NO. CSHB 105(Fin)**

Revision Date/Time (Note if correction)	Dept. Affected <u>Community &amp; Econ. Dev.</u>
Title <u>An Act providing for the licensing of speech-</u>	BRU <u>Occupational Licensing</u>
language pathologists; and providing for an effective date.	Component <u>Occupational Licensing</u>
Sponsor <u>Rep. Bunde</u>	
Requester <u>House Finance</u>	Component Serial No. <u>2360</u>

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

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	4.0	3.2	3.2	3.2	3.2	3.2
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	3.0	0.5	0.5	0.5	0.5	0.5
Supplies	0.5	0.0	0.0	0.0	0.0	0.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>7.5</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>11.2</b>	<b>0.0</b>	<b>7.4</b>	<b>0.0</b>	<b>7.4</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	7.5	3.7	3.7	3.7	3.7	3.7
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>7.5</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 CSHB 105(Fin) creates licensing of speech-language pathologists by the Department of Community and Economic Development. The division of occupational licensing anticipates existing staff will perform the licensing and investigative functions; however, like all licensing programs, time spent on this program will be based on positive timekeeping. The personal services costs reflected in this fiscal note are estimates of time that will be required to implement this new program. All costs will be covered by licensing fees. The estimated costs are explained on the attached page.

Prepared by Jennifer Strickler, Administrative Manager  
 Division Occupational Licensing  
 Approved by Commissioner Deborah B. Sedwick  
 Agency Community & Economic Development

Phone 465-2144  
 Date/Time 2/2/2000 9:50 AM  
 Date 2/2/00

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# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. CSHB 105(FIN)

ANALYSIS: (Continued)

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS FOR CSHB 105(FIN)

**PERSONAL SERVICES** **\$4.0**

Provide 1 month of an Occupational Licensing Examiner I position, Range 12, \$4.0.

**CONTRACTUAL SERVICES** **\$3.0**

Funding provides approximately 15 hours of AG legal time for regulations, license appeals, and discipline, \$1.5; and, printing, postage, communications, and advertising costs, \$1.5.

**SUPPLIES** **\$.5**

To fund daily operating supplies of the program.

**TOTAL:** **\$7.5**

**REVENUE & FUND SOURCE:** Revenue will be generated by licensing fees sufficient to cover program costs. This legislation directs the department to combine the costs and revenue of the audiology and speech pathology programs for fee setting purposes and to charge the same license fees to both professions. Approximately 25 speech pathologists are expected to seek licensure and renew licenses biennially. There are currently 45 licensed audiologists. Licensing fees must cover direct costs plus approximately \$100 per licensee for division/department overhead for the two-year period. Based on 70 licensees and \$150 initial application fee, licensing fees are estimated to be \$315.00 for the first biennium. This figure does not incorporate any existing surplus or deficit from the audiology program. Audiology fees for the September 2000 renewal will be set before this bill goes into effect and will incorporate any audiology surplus or deficit. Fees for future license renewals will be identical for audiologists and speech pathologists and may be significantly higher or lower depending on the actual costs of regulating the professions.

# Alaska State Legislature

*DURING SESSION*  
STATE CAPITOL, ROOM 501  
JUNEAU, AK 99801-1182  
(907) 465-4843 (600) 892-4643  
FAX: (907) 465-3871

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ANCHORAGE, AK 99501-2135  
(907) 269-0161  
FAX: (907) 269-0164

*E-MAIL*  
Representative\_Con\_Bunde@legis.state.ak.us

## REPRESENTATIVE CON BUNDE

District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

## Sponsor Statement

### HB 105

**"An Act providing for the licensing of speech-language pathologists; and providing for an effective date."**

Alaska is one of only six states that does not require Speech-Language Pathologists (SLP) to have a license. HB 105 sets out requirements for licensure of SLP's that will keep the quality of services provided by these practitioners consistently high.

Currently, the American Speech-Language Hearing Association sets out ethical and clinical competency standards. However, compliance with these standards is voluntary and does not guarantee a high standard of service delivery.

HB 105 will protect consumers from fraudulent practitioners who could emotionally and financially harm a client due to improper service delivery. Additionally, this legislation will help SLP's to obtain reimbursement from insurance companies that refuse to pay practitioners without a license.

The American Speech-Language Hearing Association and the Alaska Speech-Language Hearing Association support this legislation. I urge the committee to help these practitioners keep the standard of care in Alaska consistently high by passing this legislation.

## EMERALD SPEECH & LEARNING CLINIC

615 East 82nd, #204, Anchorage, AK, 99518  
(907) 349-6151, Fax 349-6383

October 30, 1998

The Honorable Con Bunde  
Representative  
716 W. 4th Ave.  
Anchorage, AK 99501

Dear Representative Bunde,

It was a pleasure speaking with you on behalf of the Alaska Speech-Language-Hearing Association (AKSHA) regarding state licensure for speech-language pathologists. AKSHA members fully support licensing in the state of Alaska for one main reason: consumer protection.

State governments are the only agencies capable of passing regulations to protect its citizens. Forty-four states have already passed licensure laws for speech-language pathologists (SLP's). Here, in Alaska, we have already passed licensure laws for audiology, physical therapy and occupational therapy. Occupational licensing for SLP's would demonstrate the continuing commitment our state government has to protecting the consumer public.

Can consumers be injured through improper delivery of speech-language pathology? Absolutely yes! Consumers can be physically harmed during procedures to treat voice disorders and swallowing disorders. They can be injured during the fitting of prosthetic devices and augmentative communication devices.

Consumers can be emotionally harmed when they are misdiagnosed and mistreated by improperly trained SLP's; when they aren't referred to the right treatment sources for further testing and follow-up.

Consumers can be financially harmed when they pay for weeks and months of services from an incompetent provider. In addition, a problem that might have been overcome or eliminated, continues on, delaying or preventing the consumer from returning to their normal life.

Has this happened in Alaska? Yes. We have a man in Homer (see enclosed advertisement) advertising himself to be a SLP. He has a Bachelor of Arts Degree but it isn't even in the field of Communication Disorders. The public has complained about his services, but there is nothing we can do.

How will licensure protect the consumers of Alaska? Licensure is the only available means we have to protect consumers from improper service delivery. For years, SLP's have voluntarily imposed standards for practice of speech-language pathology upon themselves through the American Speech-Language-Hearing Association (ASHA). ASHA has developed very stringent educational and ethical requirements for the legal practice of the profession, culminating in the Certificate of Clinical Competence (C.C.C.). Until recently, Medicare/Medicaid and the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) referenced the C.C.C. as a necessary requirement to provide speech language pathology services in hospitals, etc. A new trend has developed, however, moving away from recognizing private accreditation groups, like

ASHA, to greater reliance upon state determination of qualifications via licensure. As a result, we are left with an even thinner veil of protection for the consumer.

Now that insurance companies and hospitals are relying more on state licensure to determine if a service provider is qualified to practice, we are even more vulnerable. Not only will an unqualified provider be able to practice, but also, qualified providers will be unable to be reimbursed for services. At least one insurance company has denied payment to a SLP in Anchorage because she was not licensed in the state of Alaska. Since licensing is not available, there is no solution to the problem.

AKSHA recognizes that the time has come to enact legislation to license SLP's in private and/or clinical practice in the state of Alaska. We have considered the Eligibility/ Renewal Requirements and would like them to be commensurate with current ASHA requirements for the C.C.C. Therefore, to be eligible for licensure, all speech-language pathologists presently practicing in the state must hold a current Certificate of Clinical Competence. Private practice/clinical SLP's moving to Alaska from other states or countries may use the ASHA C.C.C. or another state or country license with standards equivalent to the C.C.C. as evidence of meeting specific licensure requirements. We do not expect this license to apply to school SLP's certified by the State Department of Education, teachers of the deaf, physicians and their employees, students, nurses, or psychologists.

AKSHA is ready to work with you and the Alaska legislature in drafting and implementing a bill to license speech-language pathologists in our state. Thank you again for your support and willingness to protect the consumers of Alaska.

Sincerely,



Kit Roberts, M.A., C.C.C.  
Speech-Language Pathologist

cc: Diane Poage, AKSHA President



## STATES REGULATING AUDIOLOGY & SPEECH-LANGUAGE PATHOLOGY

- \* 46 states regulate 1 or both professions
  - \*\* 46 states regulate AUDs (NH is the most recent--1996)
  - \*\* 44 states regulate SLPs (all but AK and CO)
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- \* 30 AUD/SLP licensure laws recognize support personnel (may not regulate them)
  
- \* 30 states require continuing education for license renewal

SPD/7-96/cel

## EMERALD SPEECH & LEARNING CLINIC

615 East 82nd, #204, Anchorage, AK, 99518  
(907) 349-6151, Fax 349-6383, (800) 474-2116

December 29, 1999

The Honorable Con Bunde  
Representative  
716 W. 4th Ave.  
Anchorage, AK 99501

Dear Representative Bunde,

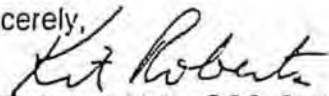
I am writing this letter in support of HB 105, an Act to provide licensing for speech-language pathologists (SLP). Consumer protection is the main reason speech-language pathologists need to be licensed. I have an additional, practical reason to support it: reimbursement.

It seems that over the last several years medical insurance companies have started to rely on state licensure of speech-language pathologists to determine if a service provider is qualified to practice. If the SLP does not have a state license, the insurance company denies payment for the services. This has happened to me. I have had several claim denials from Blue Cross/Blue Shield for this very reason. At this time, I cannot get a license to practice in Alaska. I cannot resolve the situation by obtaining a license. It takes many letters, phone calls, and eventually intervention by the office of the State of Alaska Insurance Commissioner to explain and resolve the situation.

Alaska is one of only four states that does not license speech-language pathologists in private/clinical practice. The trend to allow state governments to license SLP's instead of the federal government is a good one. It is time for Alaska to include SLP's on the list of licensed service providers such as physical therapists, occupational therapists and audiologists. The state needs to support our ability to obtain reimbursement from national insurance companies.

I am ready to work with you and the State of Alaska to support this bill to license speech-language pathologists in our state. Thank you again for your support and willingness to support our profession and protect the consumers of Alaska.

Sincerely,



Kit Roberts, M.A., CCC-SLP  
Speech-Language Pathologist



**Alaska Speech - Language - Hearing Association**

January 10, 2000

Patti Swenson  
Representative Bundy's Office  
Alaska State Capitol, Rm 501  
Juneau, Alaska 99801

Dear Ms. Swenson:

I am writing on behalf of the Alaska Speech-Language and Hearing Association in support of HB 105, licensure for speech-language pathologists.

For over a decade, the association has been investigating the need for licensure of speech-language pathologists in private practice. We have made the commitment as an association to support this bill as it works its way through the licensure process. It is the consensus of this association that this bill will help to assure consumers that the speech-language services they are receiving are of the highest standards. We are proud to be joining our fellow physical therapists, occupational therapists and audiologists in having professional licensing in the State of Alaska. As an active member of the national organization of speech-language pathologists we are increasingly aware of our uniqueness in not having standards such as those outlined in the bill. Licensure will allow us to join forty-four other states in regulating the profession of speech-language pathology.

We praise the efforts of your staff in helping this become a reality and on behalf of our Alaskan residents with communication impairments we applaud your energy and appreciate your support of the licensure bill.

Thank you.

Sincerely,

Susan Bunting, M.A., CCC-A/SP  
Executive Council Member

**PATRICIA OLMSTEAD, MCSD, CCC**

*Speech-Language Pathologist*

P.O. Box 774462

Eagle River, Alaska 99577

(907) 694-3238

To: Execucive Council  
Alaska Speech-Language-Hearing Association

From: Patty Olmstead  
Eagle River, Alaska *Patty Olmstead*

Date: March 13, 1999

Subject: House Bill 105

Today I received Susan Bunting's "GOOD NEWS" bulletin that House Bill 105 is coming to the legislature. Licensure for speech-language pathologists working outside of the school district certification requirements is long over due. I PRAISE your efforts to have this bill be passed.

As an AkSHA member, I too am pleased that soon we will be joining our fellow physical therapy, occupational and audiology practioners on having professional licensing in the State of Alaska.

I have always been supportive of any assurances to consumers that the speech-language services they are receiving are of the highest standards...no matter where they live in Alaska ..especially rural-remote regions where I continue to practice since 1979.



AMERICAN  
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HEARING  
ASSOCIATION



## Fact Sheet: Speech- Language Pathology



### Nature of the Work

Speech-language pathologists are professionals concerned with evaluation, treatment, prevention and research in human communication and its disorders. They treat speech and language disorders and work with individuals of all ages, from infants to the elderly. They diagnose and evaluate speech problems, such as fluency (e.g., stuttering), articulation, voice disorders, or language problems, such as aphasia and delayed language and related disorders, such as dysphagia (e.g., swallowing difficulties). They design and carry out comprehensive treatment plans to achieve the following:

- Help individuals learn correct production of speech sounds
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- Assist individuals who stutter to increase the amount of fluent speech and to cope with their disorder
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- Counsel individuals with speech and language disorders and their families or care givers to understand their disorder and to communicate more effectively in educational, social, and vocational settings
- Advise individuals and the community on how to prevent speech and language disorders

Although speech and language professionals work closely with teachers, physicians, psychologists, social workers, and rehabilitation counselors, and other members of an interdisciplinary team, they are autonomous and do not work under direct medical supervision.

In addition to clinical applications focusing on the diagnosis, treatment and prevention of communication disorders, speech-language pathologists have almost an infinite variety of ways to use their skills: train future professionals in colleges and

universities; administer or manage agencies, clinics, organizations, or private practices; engage in academic, laboratory or medically related research to enhance knowledge about human communication processes; develop new methods and equipment to test and evaluate problems; establish more effective treatment programs; and investigate behavioral patterns associated with communication problems.

## Work Sites

The practice and work of speech-language pathologists may take place in various settings:

- Public and private schools
- Hospitals
- Rehabilitation centers
- Nursing care facilities
- Community clinics
- Colleges and universities
- Private practice offices
- State and local health departments
- State and federal government agencies
- Home health agencies ( home care)
- Long-term care facilities
- Adult day care centers
- Centers for persons with developmental disabilities
- Research laboratories

## Entry Requirements

To enter this career, one must have a sincere interest in helping people, an above average intellectual aptitude, and the sensitivity, personal warmth, and perspective to be able to interact with the person who has a communication problem. Scientific aptitude, patience, emotional stability, tolerance, and persistence are necessary, as well as resourcefulness and imagination. Other essential traits include a commitment to work cooperatively with others and the ability to communicate effectively orally and in writing.

During high school, prospective speech-language pathologists should consider a program with courses in biology, physics, social sciences, English and mathematics, as well as in public speaking, language and psychology. On the undergraduate level, a strong liberal arts focus is recommended, with course work in linguistics, phonetics, anatomy, psychology, human development, biology, physiology and semantics. A program of study in communication sciences and disorders is available at the undergraduate level. The work of a speech-language pathologists is further enhanced by graduate education, which is mandated by ASHA. Speech-language pathologists and audiologists are also required by ASHA to obtain the ASHA Certificate of Clinical Competence (CCC) which involves the completion of a master's degree, a supervised Clinical Fellowship (CF), and a passing score on a national examination. In some areas, such as college teaching, research, and private practice, a Ph.D. degree is desirable. In most states, speech-language pathologists and

audiologists also must comply with state regulatory (licensure) standards to practice and/or have state education certification. The requirements are very similar or identical to ASHA's CCC requirements.

## Earnings

Salaries of speech-language pathologists depend on their educational background, specialty and experience, along with the geographical location and type of setting in which they work. The median salary for ASHA-certified speech-language pathologists in 1997 was \$44,000. Persons in supervisory positions for example in administration and management, may earn well over \$53,000 per year. While the 1997 median salary for certified speech-language pathologists with 1-3 years experience was \$38,000, the median salary for certified speech-language pathologists with doctorate degrees was \$53,250. Good benefits packages, such as insurance programs and leave, are usually available to these professionals.

## Working Conditions

Because there is such a wide variety of employment settings, working conditions also vary. Facilities in most school systems and established clinics are comfortable and adequately equipped, as are most facilities for research, colleges, and private practice. Since speech and hearing services are a vital part of total health care and the educational system, the number of work sites is constantly expanding. Because of the increasing demand for these services, work schedules may be heavy. An additional challenge is the constant need to update knowledge through educational experiences and reading periodicals. These challenges are balanced by the satisfaction of contributing to the quality of life of adults and children through facilitating the vital need of persons to communicate effectively.

## Size of the Profession

The American Speech-Language Hearing Association (ASHA) represents 96,636 professionals. There are more than 79,000 ASHA-certified speech language pathologists. Also, there are approximately 1,400 persons who hold dual ASHA certification. That is, they are certified as both audiologists and speech-language pathologists. These individuals hold many major positions in clinical, academic, and research fields. There are an estimated 42,000 additional individuals who are providing services in the profession.

## Future Outlook

The future of the speech-language pathology profession appears excellent. More frequent recognition of problems in preschool and school age children by teachers and parents, combined with the increased numbers of older citizens, and medical advances has created a growing need for speech and language services. There are shortages of qualified personnel in some areas of the country, especially in the inner city, rural and less populated

areas. Job opportunities in medically related areas are expected to grow at an above average rate. Although competition for positions in some areas is keen, the potential for private practice and contract work is increasing rapidly.

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AMERICAN  
SPEECH-LANGUAGE-  
HEARING  
ASSOCIATION

## Scope of Practice, Speech-Language Pathology and Audiology

*Committee on Interprofessional Relationships*

*The following document, prepared by the American Speech-Language-Hearing Association (ASHA) Committee on Interprofessional Relationships, was adopted as an official statement by the ASHA Legislative Council (LC 6-89) in November 1989. Current and past members of the committee responsible for the development of the document include Crystal S. Cooper, 1988-90 chair; John L. Petersom, 1988 chair; Rachel E. Stark, 1986-87 chair; Brenda L. B. Adamovich; Katharine G. Butler; Janina K. Casper; Becky S. Cornett; Ted A. Culler; Frank DeRuyter; Elaine S. Dunn; Anita S. Halper; Anne E. Seitz; Rosalind R. Scudder; Barbara Shadaen; and Brenda Y. Terrell. Michelle M. Ferketic, 1988-89 ex officio; Lynette R. Goldberg, 1989-90 ex officio; Carol Kamara, 1986-87 ex officio; Patricia G. Larkins, 1988 ex officio. Ann L. Carey, current vice president for professional and governmental affairs, and Nancy Becker, vice president for professional and governmental affairs, were monitoring vice presidents.*

### Preamble

The purpose of this statement is to define the scope of practice of speech-language pathology and audiology in order to: (1) inform members of ASHA and certificate holders of the activities for which certification in the appropriate area is required in accordance with the ASHA Code of Ethics; and (2) educate health-care and education professionals, consumers, and members of the general public of the services offered by speech-language pathologists and audiologists as qualified providers.

The scope of practice defined here, and the areas specifically set forth, are part of an effort to establish the broad range of services offered within the profession. It is recognized, however, that levels of experience, skill and proficiency with respect to the

activities identified within the scope of practice will vary among the individual providers. Similarly, it is recognized that related fields and professions may have knowledge, skills and experience which may be applied to some areas within the scope of practice. By defining the scope of practice of speech-language pathologists and audiologists, there is no intention to exclude members of other professions or related fields from rendering services in common practice areas for which they are competent by virtue of their respective disciplines.

Nothing in the scope of practice statement is intended to affect the licensure laws of the various states or the implementation or interpretation of such laws.

Finally, it is recognized that speech-language pathology and audiology are dynamic and continuously developing practice areas. In setting forth some specific areas as included within the scope of practice, there is no intention that the list be exhaustive or that other, new, or emerging areas be precluded from being considered as within the scope of practice.

### Statement

Speech-language pathologists and audiologists hold either the master's or doctoral degree, the Certificate of Clinical Competence of the American Speech-Language-Hearing Association, and state license where applicable. These professionals identify, assess, and provide treatment for individuals of all ages with communication disorders. They manage and supervise programs and services related to human communication and its disorders. Speech-language pathologists and audiologists counsel individuals with disorders of communication, their families, caregivers and other service providers relative to the disability present and its management. They provide consultation and make referrals. Facilitating the development and maintenance of human communication is the common goal of speech-language pathologists and audiologists.

Reference this material as: American Speech-Language-Hearing Association. (1990). Scope of practice, speech-language pathology and audiology. *Asha*, 32 (Suppl. 2), 1-2. Index terms: Scope of practice, speech-language pathology, audiology, autonomy, preferred practice patterns

HB 105: Licensing of Speech-Language Pathologists

Laura Young-Campbell, M.S., CCC-SLP  
P.O.Box 871045  
Wasilla, AK 99687

Dear Representatives Mulder and Therriault,  
Co-Chairs: House Finance

I am writing in support for the licensing of speech-language pathologists.

Although I currently work in the public schools, my education and training have allowed me to work with children and adults of all ages and a variety of disabilities. I deal with the treatment and diagnosis of those who have speech and/or language delays, voice disorders, require augmentative communication, are hard of hearing, have cleft lip/palates; and those who have impairments subsequent to stroke, head injury, oral cancer, and Parkinson's disease. As you can see, a speech-language pathologist needs to have extensive training to provide a variety of services in the area of communication disorders.

Currently, Alaska is one of six states that does not regulate the profession of speech-language pathology. I feel that as a state we may be putting our community members at risk if licensure is not passed. I, for one, would not want someone without the highest level of training to be providing speech pathology services to any member of my family. I am sure you or members of your committee would agree with me.

The requirement of certification from the American Speech-Language-Hearing Association (CCC-SLP), or its equivalent, establishes that speech-language pathologists will have a master's degree, have passed a national board examination, and have participated a clinical fellowship year (CFY), which is nine months of intensive supervision. This requirement will make sure that a speech-language pathologist has met the highest standard of training.

I encourage you to pass this important bill.  
Thank you for your consideration.

*Laura Young-Campbell*  
M.S., CCC-SLP

**HB**

**105**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT OF  
SFC 4/17/00

DATE: 4/12/00

FURTHER:

DATE TURNED  
IN TO OFFICE: 17 April 00

Finance Committee considered CS FOR HOUSE BILL NO. 105(FIN)

"An Act providing for the licensing of speech-language pathologists; relating to fees paid by audiologists and speech-language pathologists; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- 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 DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Robert E. Kelly</i>	✓				
<i>Lynne Price</i>	✓				
<i>John D. Flinn</i>	✓				
<i>Al Adams</i>	X				
<i>Gregg Wilbur</i>	✓				
<i>W. Douglas</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair:		Co-Chair:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

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

Department	Date	Zero	Fiscal
C&ED	3/1/00		7.5

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**FISCAL NOTE**

Bill Version: CSHB 105(FIN)

REPORTED OUT OF SFC 4/17/00

(H) Publish Date: 2/4/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Community & Econ. Dev.  
 Title An Act providing for the licensing of speech- BRU Occupational Licensing  
language pathologists; and providing for an effective date. Component Occupational Licensing  
 Sponsor Rep. Bunde  
 Requester House Finance Component Serial No. 2360

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

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	4.0	3.2	3.2	3.2	3.2	3.2
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	3.0	0.5	0.5	0.5	0.5	0.5
Supplies	0.5	0.0	0.0	0.0	0.0	0.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>7.5</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>11.2</b>	<b>0.0</b>	<b>7.4</b>	<b>0.0</b>	<b>7.4</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	7.5	3.7	3.7	3.7	3.7	3.7
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>7.5</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time					
Part-time					
Temporary					

**ANALYSIS:** (Attach a separate page if necessary)  
 CSHB 105(Fin) creates licensing of speech-language pathologists by the Department of Community and Economic Development. The division of occupational licensing anticipates existing staff will perform the licensing and investigative functions; however, like all licensing programs, time spent on this program will be based on positive timekeeping. The personal services costs reflected in this fiscal note are estimates of time that will be required to implement this new program. All costs will be covered by licensing fees. The estimated costs are explained on the attached page.

Prepared by Jennifer Strickler, Administrative Manager Phone 465-2144  
 Division Occupational Licensing Date/Time 2/2/2000 9:50 AM  
 Approved by Commissioner Deborah B. Sedwick Date 2/2/00  
 Agency Community & Economic Development

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information, call the Governor's Legislative Office

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. CSHB 105(FIN)

ANALYSIS: (Continued)

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS FOR CSHB 105(FIN)

**PERSONAL SERVICES** **\$4.0**

Provide 1 month of an Occupational Licensing Examiner I position, Range 12, \$4.0.

**CONTRACTUAL SERVICES** **\$3.0**

Funding provides approximately 15 hours of AG legal time for regulations, license appeals, and discipline, \$1.5; and, printing, postage, communications, and advertising costs, \$1.5.

**SUPPLIES** **\$ .5**

To fund daily operating supplies of the program.

**TOTAL: \$7.5**

**REVENUE & FUND SOURCE:** Revenue will be generated by licensing fees sufficient to cover program costs. This legislation directs the department to combine the costs and revenue of the audiology and speech pathology programs for fee setting purposes and to charge the same license fees to both professions. Approximately 25 speech pathologists are expected to seek licensure and renew licenses biennially. There are currently 45 licensed audiologists. Licensing fees must cover direct costs plus approximately \$100 per licensee for division/department overhead for the two-year period. Based on 70 licensees and \$150 initial application fee, licensing fees are estimated to be \$315.00 for the first biennium. This figure does not incorporate any existing surplus or deficit from the audiology program. Audiology fees for the September 2000 renewal will be set before this bill goes into effect and will incorporate any audiology surplus or deficit. Fees for future license renewals will be identical for audiologists and speech pathologists and may be significantly higher or lower depending on the actual costs of regulating the professions.

# Alaska State Legislature

*DURING SESSION*  
STATE CAPITOL, ROOM 501  
JUNEAU, AK 99801-1182  
(907) 465-4843 (800) 892-4843  
FAX: (907) 465-3871

*WEB SITE*  
<http://www.akrepublicans.org/Bunde.htm>



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716 W FOURTH AVE  
ANCHORAGE, AK 99501-2133  
(907) 269-0181  
FAX: (907) 269-0184

*E-MAIL*  
Representative\_Con\_Bunde@legis.state.ak.us

**REPRESENTATIVE CON BUNDE**  
District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

## Sponsor Statement

### SCSCSHB 105 (L&C)

**“An Act providing for the licensing of speech-language pathologists; and providing for an effective date.”**

Alaska is one of only six states that does not require Speech-Language Pathologists (SLP) to have a license. HB 105 sets out requirements for licensure of SLP's that will keep the quality of services provided by these practitioners consistently high.

Currently, the American Speech-Language Hearing Association sets out ethical and clinical competency standards. However, compliance with these standards is voluntary and does not guarantee a high standard of service delivery.

HB 105 will protect consumers from fraudulent practitioners who could emotionally and financially harm a client due to improper service delivery. Additionally, the licensure required for Speech Language Pathologists in this legislation will make it easier for them to obtain reimbursements from insurance companies.

The American Speech-Language Hearing Association and the Alaska Speech-Language Hearing Association support this legislation. I urge the committee to help these practitioners keep the standard of care in Alaska consistently high by passing this legislation.



AMERICAN  
SPEECH-LANGUAGE-  
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ASSOCIATION

## STATES REGULATING AUDIOLOGY & SPEECH-LANGUAGE PATHOLOGY

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SPD/7-96/cel



AMERICAN  
SPEECH-LANGUAGE-  
HEARING  
ASSOCIATION



## Fact Sheet: Speech- Language Pathology



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- Colleges and universities
- Private practice offices
- State and local health departments
- State and federal government agencies
- Home health agencies ( home care)
- Long-term care facilities
- Adult day care centers
- Centers for persons with developmental disabilities
- Research laboratories

## Entry Requirements

To enter this career, one must have a sincere interest in helping people, an above average intellectual aptitude, and the sensitivity, personal warmth, and perspective to be able to interact with the person who has a communication problem. Scientific aptitude, patience, emotional stability, tolerance, and persistence are necessary, as well as resourcefulness and imagination. Other essential traits include a commitment to work cooperatively with others and the ability to communicate effectively orally and in writing.

During high school, prospective speech-language pathologists should consider a program with courses in biology, physics, social sciences, English and mathematics, as well as in public speaking, language and psychology. On the undergraduate level, a strong liberal arts focus is recommended, with course work in linguistics, phonetics, anatomy, psychology, human development, biology, physiology and semantics. A program of study in communication sciences and disorders is available at the undergraduate level. The work of a speech-language pathologists is further enhanced by graduate education, which is mandated by ASHA. Speech-language pathologists and audiologists are also required by ASHA to obtain the ASHA Certificate of Clinical Competence (CCC) which involves the completion of a master's degree, a supervised Clinical Fellowship (CF), and a passing score on a national examination. In some areas, such as college teaching, research, and private practice, a Ph.D. degree is desirable. In most states, speech-language pathologists and

audiologists also must comply with state regulatory (licensure) standards to practice and/or have state education certification. The requirements are very similar or identical to ASHA's CCC requirements.

## Earnings

Salaries of speech-language pathologists depend on their educational background, specialty and experience, along with the geographical location and type of setting in which they work. The median salary for ASHA-certified speech-language pathologists in 1997 was \$44,000. Persons in supervisory positions for example in administration and management, may earn well over \$53,000 per year. While the 1997 median salary for certified speech-language pathologists with 1-3 years experience was \$38,000, the median salary for certified speech-language pathologists with doctorate degrees was \$53,250. Good benefits packages, such as insurance programs and leave, are usually available to these professionals.

## Working Conditions

Because there is such a wide variety of employment settings, working conditions also vary. Facilities in most school systems and established clinics are comfortable and adequately equipped, as are most facilities for research, colleges, and private practice. Since speech and hearing services are a vital part of total health care and the educational system, the number of work sites is constantly expanding. Because of the increasing demand for these services, work schedules may be heavy. An additional challenge is the constant need to update knowledge through educational experiences and reading periodicals. These challenges are balanced by the satisfaction of contributing to the quality of life of adults and children through facilitating the vital need of persons to communicate effectively.

## Size of the Profession

The American Speech-Language Hearing Association (ASHA) represents 96,636 professionals. There are more than 79,000 ASHA-certified speech language pathologists. Also, there are approximately 1,400 persons who hold dual ASHA certification. That is, they are certified as both audiologists and speech-language pathologists. These individuals hold many major positions in clinical, academic, and research fields. There are an estimated 42,000 additional individuals who are providing services in the profession.

## Future Outlook

The future of the speech-language pathology profession appears excellent. More frequent recognition of problems in preschool and school age children by teachers and parents, combined with the increased numbers of older citizens, and medical advances has created a growing need for speech and language services. There are shortages of qualified personnel in some areas of the country, especially in the inner city, rural and less populated

areas. Job opportunities in medically related areas are expected to grow at an above average rate. Although competition for positions in some areas is keen, the potential for private practice and contract work is increasing rapidly.

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**Alaska Speech - Language - Hearing Association**

January 10, 2000

Patti Swenson  
Representative Bundy's Office  
Alaska State Capitol, Rm 501  
Juneau, Alaska 99801

Dear Ms. Swenson:

I am writing on behalf of the Alaska Speech-Language and Hearing Association in support of HB 105, licensure for speech-language pathologists.

For over a decade, the association has been investigating the need for licensure of speech-language pathologists in private practice. We have made the commitment as an association to support this bill as it works its way through the licensure process. It is the consensus of this association that this bill will help to assure consumers that the speech-language services they are receiving are of the highest standards. We are proud to be joining our fellow physical therapists, occupational therapists and audiologists in having professional licensing in the State of Alaska. As an active member of the national organization of speech-language pathologists we are increasingly aware of our uniqueness in not having standards such as those outlined in the bill. Licensure will allow us to join forty-four other states in regulating the profession of speech-language pathology.

We praise the efforts of your staff in helping this become a reality and on behalf of our Alaskan residents with communication impairments we applaud your energy and appreciate your support of the licensure bill.

Thank you.

Sincerely,

Susan Bunting, M.A., CCC-A/SP  
Executive Council Member

## EMERALD SPEECH & LEARNING CLINIC

615 East 82nd, #204, Anchorage, AK, 99518  
(907) 349-6151, Fax 349-6383

October 30, 1998

The Honorable Con Bunde  
Representative  
716 W. 4th Ave.  
Anchorage, AK 99501

Dear Representative Bunde,

It was a pleasure speaking with you on behalf of the Alaska Speech-Language-Hearing Association (AKSHA) regarding state licensure for speech-language pathologists. AKSHA members fully support licensing in the state of Alaska for one main reason: consumer protection.

State governments are the only agencies capable of passing regulations to protect its citizens. Forty-four states have already passed licensure laws for speech-language pathologists (SLP's). Here, in Alaska, we have already passed licensure laws for audiology, physical therapy and occupational therapy. Occupational licensing for SLP's would demonstrate the continuing commitment our state government has to protecting the consumer public.

Can consumers be injured through improper delivery of speech-language pathology? Absolutely yes! Consumers can be physically harmed during procedures to treat voice disorders and swallowing disorders. They can be injured during the fitting of prosthetic devices and augmentative communication devices.

Consumers can be emotionally harmed when they are misdiagnosed and mistreated by improperly trained SLP's; when they aren't referred to the right treatment sources for further testing and follow-up.

Consumers can be financially harmed when they pay for weeks and months of services from an incompetent provider. In addition, a problem that might have been overcome or eliminated, continues on, delaying or preventing the consumer from returning to their normal life.

Has this happened in Alaska? Yes. We have a man in Homer (see enclosed advertisement) advertising himself to be a SLP. He has a Bachelor of Arts Degree but it isn't even in the field of Communication Disorders. The public has complained about his services, but there is nothing we can do.

How will licensure protect the consumers of Alaska? Licensure is the only available means we have to protect consumers from improper service delivery. For years, SLP's have voluntarily imposed standards for practice of speech-language pathology upon themselves through the American Speech-Language-Hearing Association (ASHA). ASHA has developed very stringent educational and ethical requirements for the legal practice of the profession, culminating in the Certificate of Clinical Competence (C.C.C.). Until recently, Medicare/Medicaid and the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) referenced the C.C.C. as a necessary requirement to provide speech language pathology services in hospitals, etc. A new trend has developed, however, moving away from recognizing private accreditation groups, like

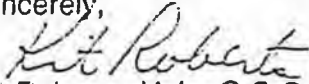
ASHA, to greater reliance upon state determination of qualifications via licensure. As a result, we are left with an even thinner veil of protection for the consumer.

Now that insurance companies and hospitals are relying more on state licensure to determine if a service provider is qualified to practice, we are even more vulnerable. Not only will an unqualified provider be able to practice, but also, qualified providers will be unable to be reimbursed for services. At least one insurance company has denied payment to a SLP in Anchorage because she was not licensed in the state of Alaska. Since licensing is not available, there is no solution to the problem.

AKSHA recognizes that the time has come to enact legislation to license SLP's in private and/or clinical practice in the state of Alaska. We have considered the Eligibility/ Renewal Requirements and would like them to be commensurate with current ASHA requirements for the C.C.C. Therefore, to be eligible for licensure, all speech-language pathologists presently practicing in the state must hold a current Certificate of Clinical Competence. Private practice/clinical SLP's moving to Alaska from other states or countries may use the ASHA C.C.C. or another state or country license with standards equivalent to the C.C.C. as evidence of meeting specific licensure requirements. We do not expect this license to apply to school SLP's certified by the State Department of Education, teachers of the deaf, physicians and their employees, students, nurses, or psychologists.

AKSHA is ready to work with you and the Alaska legislature in drafting and implementing a bill to license speech-language pathologists in our state. Thank you again for your support and willingness to protect the consumers of Alaska.

Sincerely,



Kit Roberts, M.A., C.C.C.  
Speech-Language Pathologist

cc: Diane Poage, AKSHA President



**Alaska Speech - Language - Hearing Association**

February 1, 2000

Patti Swenson  
Representative Bundy's Office  
Alaska State Capitol, Rm 501  
Juneau, AK 99801

Dear Ms. Swenson:

I am writing in response to the committee's questions in regards to House Bill 105, licensure for speech-language pathologists. Due to the power outage on the Kenai Peninsula, I was not available to respond to these questions during the teleconference.

The question from the committee was in regards to speech-language services among the Native Health Corporations and the affect the licensure would have on contract services or employees of the corporations.

I am not aware of any speech-language pathologist employed directly by a Native corporation. They have audiologists on staff but not speech-language pathologists.

It is my understanding that the speech-language services for the birth to three population are provided through the non-profit Infant Learning Programs around the state who provide speech-language services through a grant from the State of Alaska Maternal, Child and Family Health division of Health and Social Services. As private non-profit agencies they can select their own credentials for hiring speech-language pathologists, however, the Infant Learning Programs do hire speech-language pathologists to work with Medicaid eligible families and the minimal criteria for being a Medicaid provider in speech-language pathology is that the provider must have the Certificate of Clinical Competence from the American Speech-Language and Hearing Association. This would also be the requirement for licensure if HB 105 were to pass. Some of the Infant Learning Programs require the Department of Education certification and others contract their services directly through speech-language pathologists in private practice. The later would have to be in compliance with state licensure requirements. Those covered by the Department of Education certification would not be required to have occupational licenses. The hiring criteria would be up to the individual agencies providing the services.

The children ages three to twenty-one years could receive free speech-language services through school district employed speech-language pathologists and therefore it is unlikely that the Native corporations would contract independently for this client population. These therapists would not be required to have licensure under HB 105.

The adult population most likely would be receiving services through speech-language pathologists in private practice. The Native corporations would probably contract for services as needed and again the minimal criteria for Medicaid or insurance reimbursement is the Certificate of Clinical Competence with the American Speech-Language and Hearing Association. Speech-language pathologists in private practice would be required to hold a license should HB105 pass.

In many instances, the Native corporations, Infant Learning Programs or hospitals who contract for speech-language services have paid for the certifications or memberships to professional associations as part of the contractual fees. The payment of licensure fees should HB 105 pass, may be a negotiated contract item for those speech-language pathologists in private practice.

I do not anticipate that HB 105 will have a significant impact on Native corporations or the speech-language services currently provided to the Native population around the state. The majority of speech-language pathologists practicing in the state meet the standards for licensure and those members of our association in private practice have expressed support for the bill.

If you need further clarification or have questions, please contact me. I apologize for the additional time or inconvenience the interrupted teleconference created.

Sincerely,



Susan Bunting, M.A., CCC-A/SP  
Executive Council Member

HB 105: Licensing of Speech-Language Pathologists

Laura Young-Campbell, M.S., CCC-SLP  
P.O.Box 871045  
Wasilla, AK 99687

Dear Representatives Mulder and Therriault,  
Co-Chairs: House Finance

I am writing in support for the licensing of speech-language pathologists.

Although I currently work in the public schools, my education and training have allowed me to work with children and adults of all ages and a variety of disabilities. I deal with the treatment and diagnosis of those who have speech and/or language delays, voice disorders, require augmentative communication, are hard of hearing, have cleft lip/palates; and those who have impairments subsequent to stroke, head injury, oral cancer, and Parkinson's disease. As you can see, a speech-language pathologist needs to have extensive training to provide a variety of services in the area of communication disorders.

Currently, Alaska is one of six states that does not regulate the profession of speech-language pathology. I feel that as a state we may be putting our community members at risk if licensure is not passed. I, for one, would not want someone without the highest level of training to be providing speech pathology services to any member of my family. I am sure you or members of your committee would agree with me.

The requirement of certification from the American Speech-Language-Hearing Association (CCC-SLP), or it's equivalent, establishes that speech-language pathologists will have a master's degree, have passed a national board examination, and have participated a clinical fellowship year (CFY), which is nine months of intensive supervision. This requirement will make sure that a speech-language pathologist has met the highest standard of training.

I encourage you to pass this important bill.  
Thank you for your consideration.

*Laura Young-Campbell*  
M.S., CCC-SLP

## FAX

**To:** Patty Swinson  
Rep. Con Bunde's Office  
3871

**From:** Judith Entwistle   
Dept. of Education & Early Development  
Teacher Education & Certification

**Date:** April 14, 2000

**Re:** Request for Regulations Regarding Speech Pathologists in Schools

Statute (AS 14.20.010) says that "a person may not be employed as a teacher in the public schools of the state unless that person possesses a valid teacher certificate." AS 14.20.215 defines "teacher" and "includes individuals holding other positions as determined by the department by regulation."

A speech pathologist is a teacher who must hold a specific endorsement on a Type C certificate. The regulations that apply follow.

#### 4 AAC 12.900 DEFINITIONS

(a)(13) "teacher" as used in AS 14.20 and this chapter, means a person, who, for compensation instructs or teaches students in any grade from kindergarten-12, and who is not supervised by another person in the same room, classroom, or other location; the term includes...a provider of special education and related services....

#### 4 AAC 12.040 SPECIAL SERVICES CERTIFICATE (TYPE C)

(a) A special services certificate, valid for five years, may be issued to an applicant who has completed a program in the special service area....

#### 4 AAC 12.060 ENDORSEMENTS

(e) For the "speech," "language," or "hearing" endorsement, the applicant must  
(1) either

- (A) hold a master's or higher degree with a major emphasis in speech-language pathology, audiology, or speech-language and hearing science; or
- (B) possess certification of clinical competence from the American Speech-Language-Hearing Association; and

(2) be recommended for the endorsement by an institution whose program has been accredited by the National Council for Accreditation of Teacher Education or the National Association of State Directors of Teacher Education and Certification or approved by the American Speech-Language-Hearing Association.

# TELECONFERENCE

## **WE ARE JOINED BY:**

JANICE ADAIR FOR HB 361 *Anc*

KIT ROBERTS FOR HB 105 *Anc*

JERRY KURTZ FOR HB239 *Anc*

SHARON YOUNG FOR HB 239 *Anc*

JOHN MCCABE FOR HB 239 *CHICAGO*

STACY WEED FOR HB 239 *SEATTLE*  
*CYNTHIA*

SENATE FINANCE COMMITTEE

SIGN-IN

HB 105-LICENSING SPEECH PATHOLOGY/AUDIOLOGY

NAME: Catherine Reardon Subject/Bill No: HB 105  
Co./Dept./Title: Division of Occupational Phone: 465-2538  
Licensing  
Address: PO 110806 Jackson 39201 Zip: 39211

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond To Questions

Teleconference - Available if any questions

Off-Net 1

HB 98 Diane Wendlandt, Dept. Law

Anc L10 HB105 Kit Roberts

HB325 Leonard Anderson

Off-Net 2 HB 239 Jerry Kurtz - to testify