

ALASKA LEGISLATURE

2420

HOUSE and SENATE FINANCE COMMITTEE FILES,

2001 - 2002

1 ASSISTANCE PROGRAMS HAD THERE BEEN NO PERMANENT FUND
2 DIVIDEND PROGRAM.]

3 * Sec. 3. AS 43.23.085 is amended to read:

4 Sec. 43.23.085. Eligibility for state programs. A program administered by
5 the state or any of its instrumentalities or municipalities, the eligibility for which is
6 based on financial need, shall treat [MAY NOT CONSIDER] a permanent fund
7 dividend as income or resources [UNLESS REQUIRED TO DO SO BY FEDERAL
8 LAW OR REGULATION].

9 * Sec. 4. This Act takes effect July 1, 2002.

Distributed by: Senator Randy Phillips

PFD HOLD HARMLESS (Fiscal Impact)

Program	Cost - existing law	Under CSSB 340 FIN
SSI	\$2,986,800	Remains
Adult Public Assistance*	\$3,612,300	Remains
Medicaid	\$200,000	(FED) Eliminated**
Contractual Services	\$455,000	\$106,000 Remains***
AK Temp Assistance	\$4,143,700	Eliminated
Food Stamps	\$1,610,100	Eliminated
Total	\$13,007,900	\$6,904,200 (PFD HH)

*Needy seniors, blind, and disabled

General Fund

Program	Cost - existing law	Under CSSB 340 FIN
CSED#	(\$1,458,000)	\$0
Contractual Services PFD HH	\$0	\$349,700
General Relief Asst	\$72,400	\$0
Total	(\$1,385,600)	\$349,700 (GF)

Total Funds Available from PFD HH:	\$6,103,700
Estimated Loss in General Fund Dollars:	\$1,735,300
Difference:	\$4,368,400

**Under new federal law, Dividends will not be considered income by the federal government.

***According to the State Department of Health & Social Services, \$349,700 under Contractual Services (Food Stamps, Temp Asst) will be deleted from PFD HH and transferred to GF.

#CSED estimates a loss of \$1.4 million in revenue (FY03) under SB 340. Under existing law, CSED garnishes PFDs from clients on public assistance. Under SB 340, those monies would go directly to the custodial parent (not GF) if the parent were temporarily taken off public assistance.

distributed by: DTHSS
4/3/02

Residence City

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid ALEKNAGIK	1	.0	.0	.0
AMBLER	8	.1	.1	.1
ANAKTUVUK PASS	2	.0	.0	.2
ANCHOR POINT	24	.4	.4	.5
ANCHORAGE	3077	48.3	48.3	48.8
ANDERSON	10	.2	.2	49.0
ANGOON	2	.0	.0	49.0
ATKA	1	.0	.0	49.0
ATKASUK	1	.0	.0	49.0
AUKE BAY	1	.0	.0	49.1
BARROW	22	.3	.3	49.4
BETHEL	3	.0	.0	49.4
BIG LAKE	52	.8	.8	50.3
BIRCH CREEK	1	.0	.0	50.3
BREVIK MISSION	14	.2	.2	50.5
BUCKLAND	12	.2	.2	50.7
CANDLE	1	.0	.0	50.7
CANTWELL	1	.0	.0	50.7
CENTRAL	3	.0	.0	50.8
CHENEGA	1	.0	.0	50.8
CHICKALOON	5	.1	.1	50.9
CHIGNIK LAGOON	1	.0	.0	50.9
CHIGNIK LAKE	2	.0	.0	50.9
CHITINA	5	.1	.1	51.0
CHUGIAK	42	.7	.7	51.6
CLAM GULCH	4	.1	.1	51.7
CLARKS POINT	3	.0	.0	51.7
COFFMAN COVE	2	.0	.0	51.8
COOPER LANDING	1	.0	.0	51.8
COPPER CENTER	16	.3	.3	52.0
CORDOVA	15	.2	.2	52.3
CRAIG	13	.2	.2	52.5
DEERING	3	.0	.0	52.5
DELTA JUNCTION	68	1.1	1.1	53.6
DILLINGHAM	25	.4	.4	54.0
DIOMEDE	5	.1	.1	54.1
DOT LAKE	1	.0	.0	54.1
DOUGLAS	15	.2	.2	54.3
DUTCH HARBOR	1	.0	.0	54.3
EAGLE	5	.1	.1	54.4
EAGLE RIVER	83	1.3	1.3	55.7
EKLUTNA	1	.0	.0	55.7
EKWOK	2	.0	.0	55.8
ELIM	10	.2	.2	55.9
FAIRBANKS	336	5.3	5.3	61.2
FALSE PASS	1	.0	.0	61.2
FORT RICHARDSON	1	.0	.0	61.2
FT WAINWRIGHT	3	.0	.0	61.3
GAKONA	3	.0	.0	61.3
GAMBELL	27	.4	.4	61.7
GIRDWOOD	3	.0	.0	61.8
GLENNALLEN	4	.1	.1	61.9
GOLOVIN	1	.0	.0	61.9
GUSTAVUS	2	.0	.0	61.9
HAINES	26	.4	.4	62.3

ATAP
February 2002

Residence City

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid HEALY	4	.1	.1	62.4
HOMER	70	1.1	1.1	63.5
HOONAH	1	.0	.0	63.5
HOPE	2	.0	.0	63.5
HOUSTON	31	.5	.5	64.0
HUSLIA	1	.0	.0	64.0
HYDABURG	1	.0	.0	64.0
HYDER	3	.0	.0	64.1
ILIAMNA	2	.0	.0	64.1
JUNEAU	150	2.4	2.4	66.5
KAKE	3	.0	.0	66.5
KAKTOVIK	1	.0	.0	66.5
KARLUK	1	.0	.0	66.5
KASILOF	14	.2	.2	66.8
KENAI	152	2.4	2.4	69.1
KETCHIKAN	130	2.0	2.0	71.2
KIANA	6	.1	.1	71.3
KING COVE	5	.1	.1	71.4
KIVALINA	4	.1	.1	71.4
KLAWOCK	7	.1	.1	71.5
KOBUK	2	.0	.0	71.6
KODIAK	92	1.4	1.4	73.0
KOKHANOK	5	.1	.1	73.1
KOLIGANEK	8	.1	.1	73.2
KOTLIK	1	.0	.0	73.2
KOTZEBUE	29	.5	.5	73.7
KOYUK	11	.2	.2	73.9
LEVELOCK	2	.0	.0	73.9
LIVENGOOD	1	.0	.0	73.9
MANOKOTAK	16	.3	.3	74.1
MCGRATH	2	.0	.0	74.2
MENTASTA LAKE	2	.0	.0	74.2
METLAKATLA	62	1.0	1.0	75.2
MOOSE PASS	2	.0	.0	75.2
NAKNEK	4	.1	.1	75.3
NANWALEK	1	.0	.0	75.3
NELSON LAGOON	1	.0	.0	75.3
NENANA	5	.1	.1	75.4
NEW STUYAHOK	22	.3	.3	75.7
NEWHALEN	1	.0	.0	75.7
NIKISKI	39	.6	.6	76.4
NIKOLAEVSK	3	.0	.0	76.4
NINILCHIK	7	.1	.1	76.5
NOATAK	8	.1	.1	76.6
NOME	46	.7	.7	77.4
NONDALTON	7	.1	.1	77.5
NOORVIK	13	.2	.2	77.7
NORTH POLE	83	1.3	1.3	79.0
NUIQSUT	2	.0	.0	79.0
OLD HARBOR	3	.0	.0	79.1
PALMER	216	3.4	3.4	82.4
PEDRO BAY	2	.0	.0	82.5
PERRYVILLE	3	.0	.0	82.5
PETERS CREEK	4	.1	.1	82.6
PETERSBURG	18	.3	.3	82.9

Residence City

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid POINT BAKER	4	.1	.1	82.9
POINT HOPE	8	.1	.1	83.1
PORT GRAHAM	1	.0	.0	83.1
PORT HEIDEN	1	.0	.0	83.1
PORT PROTECTION	1	.0	.0	83.1
SAINT GEORGE	2	.0	.0	83.1
SALCHA	5	.1	.1	83.2
SAND POINT	7	.1	.1	83.3
SAVOONGA	41	.6	.6	84.0
SELAWIK	36	.6	.6	84.5
SELDOVIA	1	.0	.0	84.5
SEWARD	56	.9	.9	85.4
SHAKTOOLIK	6	.1	.1	85.5
SHISHMAREF	21	.3	.3	85.9
SHUNGNAK	4	.1	.1	85.9
SITKA	33	.5	.5	86.4
SLANA	3	.0	.0	86.5
SOLDOTNA	114	1.8	1.8	88.3
SOUTH NAKNEK	1	.0	.0	88.3
ST MICHAEL	17	.3	.3	88.5
ST PAUL ISLAND	4	.1	.1	88.6
STEBBINS	35	.5	.5	89.2
STERLING	33	.5	.5	89.7
SUTTON	14	.2	.2	89.9
TAKOTNA	1	.0	.0	89.9
TALKEETNA	15	.2	.2	90.1
TATITLEK	1	.0	.0	90.2
TELLER	7	.1	.1	90.3
THORNE BAY	9	.1	.1	90.4
TOGIAK	29	.5	.5	90.9
TOK	17	.3	.3	91.1
TRAPPER CREEK	4	.1	.1	91.2
TYONEK	5	.1	.1	91.3
UNALAKLEET	9	.1	.1	91.4
UNALASKA	1	.0	.0	91.4
VALDEZ	23	.4	.4	91.8
WAINWRIGHT	2	.0	.0	91.8
WALES	3	.0	.0	91.9
WASILLA	451	7.1	7.1	98.9
WHALE PASS	2	.0	.0	99.0
WHITE MOUNTAIN	6	.1	.1	99.1
WHITTIER	4	.1	.1	99.1
WILLOW	37	.6	.6	99.7
WRANGELL	15	.2	.2	100.0
YAKUTAT	3	.0	.0	100.0
Total	6375	100.0	100.0	

Impacts of Counting PFD for Medicaid

Impacts to Clients

Aged, Blind and Disabled recipients who do not receive SSI payments would be ineligible for Medicaid in the month of receipt, including:

- Over 5,000 APA recipients who do not receive SSI, including over 1,000 Home and Community-Based Services waiver recipients.
- Over 800 Home and Community-Based Services waiver recipients and Medicaid nursing home residents who do not receive APA.
- Over 100 people on the Working Disabled Buy-In.

Many low income families and children would also lose their Medicaid for a month.

- Over 6,000 adults on Family Medicaid (income standard is approximately 70 % of the federal poverty level).
- Almost 4,000 children on Family Medicaid or Denali KidCare whose application or renewal was due in the month of PFD receipt (about one-sixth of such cases—this number might drop in subsequent years as review cycles changed).
- The families hurt worst by this loss of Medicaid coverage would be the families with the greatest need for health care.

Impacts to Providers

Nursing home residents, home and community-based waiver clients and other non-SSI Medicaid recipients with high monthly medical expenses would not be able to pay all of their monthly health care bills with the PFD.

Nursing Homes: Nursing homes would not receive Medicaid payment for about 70 percent of their residents in October. In 2001, this would have been about \$4.2 million.

Resident payments in October would fall far short of the Medicaid payments (the average monthly cost of nursing home care in Alaska is over \$8,000/month. It would take most residents several months to pay off the balance; some would not be able to.

Home and Community-Based Services: Assisted living homes, personal care agencies, respite providers and other home and community-based service agencies would all lose Medicaid revenue for October with little chance that clients could reimburse them fully for services provided.

Unlike the situation with nursing homes, Medicaid recipients who use home and community-based services need their monthly income to pay for room and board expenses. Few individuals who used significant amount of home and community-based services would be able to repay their providers in subsequent months.

In October of 2001, for individuals who would not have been eligible if the PFD were counted, Medicaid paid over \$1.8 million to assisted living homes and residential habilitation providers, over \$700,000 for chore and respite services, over \$500,000 for personal care services, and over \$400,000 to chore and transportation providers. Like nursing homes, these providers are largely serve Medicaid recipients.

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Senate Rules Committee

Senator Randy Phillips, Chair

CSSB 340 (FIN) "An Act relating to treatment of permanent fund dividends for purposes of determining eligibility for certain benefits; and providing for an effective date."

Sponsor Statement

CSSB 340 (FIN), "An Act relating to treatment of permanent fund dividends for purposes of determining eligibility for certain benefits; and providing for an effective date" seeks to repeal a "hold harmless" provision that directs state agencies or any of its subdivisions not to consider a permanent fund dividend when determining eligibility for a public assistance program that is based on financial need.

CSSB 340 (FIN) does not affect the "hold harmless" provision for persons receiving state adult public assistance, federal supplemental security income (SSI), or Medicaid. These programs provide benefits for needy children, seniors, the blind, and disabled.

CSSB 340 (FIN) is a fiscally responsible measure estimated to save the state \$6 million* in fiscal year 2003.

** It is the intent of the sponsor to transfer savings from the "hold harmless" program to Medicaid.*

Senator John Cowdery, Vice-Chair
Senator Rick Halford, Senator Gene Thernault, Senator Johnny Ellis
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Senate Rules Committee

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CSSB 340 (FIN) "An Act relating to treatment of permanent fund dividends for purposes of determining eligibility for certain benefits; and providing for an effective date."

Sectional Analysis

Sec. 1. Exempts from public notice requirements applicable to other appropriations from the dividend fund appropriations for medical assistance under AS 47.07 to the extent the amount does not exceed what would have been paid under AS 43.23.075, "hold harmless," as the statute read on June 29, 2002.

Sec. 2. Requires DHSS to consider a permanent fund dividend as income in determining eligibility for a public assistance program. Permits an individual who is denied assistance under the state adult public assistance program, Medicaid, or under federal supplemental security income program solely because of the receipt of a permanent fund dividend to receive the same level of assistance as that individual would have received under either program. The two programs provide benefits to needy children, aged, blind, and disabled individuals.

Sec. 3. Requires a permanent fund dividend to be considered as income for purposes of benefit programs administered by a state instrumentality or a municipality.

Sec. 4. The effective date is July 1, 2002.

Senator John Cowdery, Vice-Chair
Senator Rick Halford, Senator Gene Therriault, Senator Johnny Ellis
Senator_Randy_Phillips@legis.state.ak.us

Distributed by: Senator Randy Phillips

HOLD HARMLESS (Fiscal Impact)

Program	Cost (existing law)	Under CSSB 340 FIN
SSI	\$2,986,800	Remains
Adult Public Assistance*	\$3,612,300	Remains
Medicaid	\$200,000	Remains
Contractual Services#	\$455,000	Remains
AK Temp Assistance	\$4,143,700	Eliminated
Food Stamps	\$1,610,100	Eliminated
Total	\$13,007,900	\$7,254,100 (PFD HH)

*Needy seniors, blind, and disabled

#Under SB 340, cost savings may be realized for lower contractual needs

Total Estimated Savings \$5,753,800

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Senate Rules Committee

Senator Randy Phillips, Chair

SB 340 "An Act relating to treatment of permanent fund dividends for purposes of determining eligibility for certain benefits; and providing for an effective date."

Sponsor Statement

SB 340, "An Act relating to treatment of permanent fund dividends for purposes of determining eligibility for certain benefits; and providing for an effective date" seeks to repeal a "hold harmless" provision that directs state agencies or any of its subdivisions not to consider a permanent fund dividend when determining eligibility for a public assistance program that is based on financial need.

SB 340 does not affect the "hold harmless" provision for persons receiving state adult public assistance or federal supplemental security income. These two programs provide benefits for needy seniors, the blind, and disabled.

SB 340 is a fiscally responsible measure estimated to save the state \$6 million in fiscal year 2003.

Senator John Cowdery, Vice-Chair
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Senate Rules Committee

Senator Randy Phillips, Chair

SB 340 "An Act relating to treatment of permanent fund dividends for purposes of determining eligibility for certain benefits; and providing for an effective date."

Sectional Analysis

Sec. 1. Permits an individual who is denied assistance under the state adult public assistance program or under the federal supplemental security income program solely because of the receipt of a permanent fund dividend to receive the same level of assistance as that individual would have received under either program. The two programs provide benefits to needy aged, blind, and disabled individuals.

Sec. 2. Repeals a "hold harmless" provision that directs the Department of Health and Social Services not to consider a permanent fund dividend when determining eligibility for a public assistance program administered by the department that is based in financial need. Repeals a "hold harmless" provision that permits an individual who is denied assistance under a program because a permanent fund dividend must be considered in determining eligibility under federal law or regulation to receive the same level of assistance. Repeals a requirement forbidding a program based on need administered by the state or any of its subdivisions or municipalities from considering a permanent fund dividend in determining eligibility unless required to do so by federal law or regulation.

Sec. 3. The effective date is July 1, 2002

Senator John Cowdery, Vice-Chair
Senator Rick Halford, Senator Gene Therriault, Senator Johnny Ellis
Senator Randy Phillips@legis.state.ak.us

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MEMORANDUM

January 25, 2002

SUBJECT: Hold harmless provisions of the permanent fund dividend program
(Work Order No. 22-LS1361)

TO: Senator Randy Phillips

FROM: Tamara Brandt Cook
Director *TBC*

Here is a draft prepared in response to your request to eliminate the PFD "hold harmless" provisions except for mentally and physically handicapped. This draft takes the approach of keeping hold harmless in place only for recipients of Supplemental Security Income under the Social Security Act and for recipients of state adult public assistance, the two programs primarily designed to provide assistance to physically or mentally disabled people. However, those two assistance programs do not perfectly fit your request because certain poverty level minors, pregnant women, and seniors, as well as disabled persons, receive benefits. So, the approach taken in this draft covers some persons that you did not wish to include in the hold harmless provision. These persons can be carved out as exceptions to coverage, but this would make your bill a bit more complicated and inevitably focus attention on the policy issue of whether they should be excluded. Consequently, for purposes of this draft, I have not limited coverage to only disabled persons covered under those two programs. Please let me know if you would like the limit added.

Additionally, some disabled individuals receive benefits under programs that are designed to help the needy population at large and are not specifically focused on providing assistance to the disabled as a separate group. It is possible for a disabled person who does not qualify for assistance under the Supplemental Security Income or adult public assistance programs to qualify for a benefit under another type of program. Those disabled people who receive some benefits but are not also recipients under the Supplemental Security Income or adult public assistance programs are left out of this draft. Adding them in under AS 43.23.075(b) would actually expand coverage under that primary "hold harmless" provision of AS 43.23.075(b). I thought you probably do not want to do this, but if I am wrong, let me know and I will rework this draft.

Lastly, please be aware that there are two provisions of law that may or may not be considered part of the "hold harmless" package in the PFD program. These do not make additional money available to persons receiving benefits if federal funds are reduced, but, instead, to the extent permitted by federal law, protect recipients of benefits from a

Senator Randy Phillips

January 25, 2002

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decrease in those benefits that would otherwise result from receipt of a dividend and the consequent treatment of the dividend as income. AS 43.23.085 states in full:

Sec. 43.23.085. Eligibility for state programs.

A program administered by the state or any of its instrumentalities or municipalities, the eligibility for which is based on financial need, may not consider a permanent fund dividend as income or resources unless required to do so by federal law or regulation.

AS 43.23.075(a) essentially accomplishes the same thing as AS 43.23.085, but it is specific to public assistance programs administered by the Department of Health and Social Services.

Both of these provisions are simply repealed in this draft, so that, for purposes of all benefit programs based on income, other than the two programs identified in sec. 1 of the draft, the money a person receives from dividends will be taken into account for purposes of determining eligibility. If you decide to keep these provisions in effect, let me know and I will delete them from the repeal section of your draft. Another possible approach would be to keep the provisions, but limit them to cover only disabled persons who receive benefits and for whom disability is an eligibility factor. Let me know your thoughts on this.

TBC:med
02-055.med

Enclosure



Sec. 43.23.075. Eligibility for public assistance.

(a) In determining the eligibility of an individual under a public assistance program administered by the Department of Health and Social Services in which eligibility for assistance is based on financial need, the Department of Health and Social Services may not consider a permanent fund dividend as income or resources received by the recipient of public assistance or by a member of the recipient's household unless required to do so by federal law or regulation. The Department of Health and Social Services shall notify all recipients of public assistance of the effects of receiving a permanent fund dividend.

(b) An individual who is denied medical assistance under 42 U.S.C. 1396 - 1396p (Social Security Act, Title XIX) solely because of the receipt of a permanent fund dividend by the individual or by a member of the individual's household is eligible for state-funded medical assistance under AS 47.25.120 - 47.25.300 (general relief assistance program). The individual is entitled to receive, for a period not to exceed four months, the same level of medical assistance as the individual would have received under 42 U.S.C. 1396 - 1396p (Social Security Act, Title XIX) had there been no permanent fund dividend program.

(c) An individual who is denied assistance solely because permanent fund dividends received by the individual or by a member of the individual's household are counted as income or resources under federal law or regulation is eligible for cash assistance under AS 47.25.120 - 47.25.300 (general relief assistance program). Notwithstanding the limit in AS 47.25.130, the individual is entitled to receive, for a period not to exceed four months, the same amount as the individual would have received under other public assistance programs had there been no permanent fund dividend program.

Sec. 43.23.080. Eligibility for state public assistance payments. [Repealed, Sec. 22 ch 102 SLA 1982].

Repealed or Renumbered

Sec. 43.23.085. Eligibility for state programs.

A program administered by the state or any of its instrumentalities or municipalities, the eligibility for which is based on financial need, may not consider a permanent fund dividend as income or resources unless required to do so by federal law or regulation.

Sec. 43.23.090. Tax exemption. [Repealed, Sec. 22 ch 102 SLA 1982].

Repealed or Renumbered

Sec. 43.23.095. Definitions.

In this chapter,

(1) "Alaska permanent fund" means the fund established by art. IX, Sec. 15 of the state constitution;

(2) "disabled" means physically or mentally unable to complete and sign an application due to a serious emotional disturbance, visual, orthopedic, or other health impairment, or developmental disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism or other cause; "disabled" does not mean "incompetent";

Component Detail - FY 03 Operating Budget - Governor Structure

Numbers AND Language Sections!

Component: PFD Hold Harmless
BRU: Public Assistance

Agency: Department of Health and Social Services

	<u>01Actual</u>	<u>02 CC</u>	<u>02 Auth</u>	<u>02MgtPln</u>	<u>Adj Base</u>	<u>Gov</u>	<u>02MgtPln to Gov</u>	
Total	15,536.0	16,147.3	16,147.3	16,147.3	16,147.3	12,552.9	-3,139.4	-19.4 %
<u>Objects of Expenditure:</u>								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 %
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 %
Contractual	481.7	481.7	481.7	481.7	481.7	455.0	-26.7	-5.5 %
Commodities	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 %
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 %
Lands/Buildings	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 %
Grants, Claims	15,054.3	15,665.6	15,665.6	15,665.6	15,665.6	12,552.9	-3,112.7	-19.9 %
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 %
<u>Funding Sources:</u>								
1050 PFD Fund	15,536.0	16,147.3	16,147.3	16,147.3	16,147.3	13,007.9	-3,139.4	-19.4 %
<u>Positions:</u>								
Perm Full Time	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 %
Perm Part Time	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 %
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 %

HOLD HARMLESS

Program	Cost	Under SB 340
SSI	\$2,986,800	Remains
Adult Public Assistance*	\$3,612,300	Remains
Medicaid	\$200,000	Eliminated
Food Stamp	\$1,610,100	Eliminated
AK Temp Assistance	\$4,143,700	Eliminated
Contractual Services#	\$455,000	Remains
Total	\$13,007,900	\$7,054,100

*Needy seniors, blind, and disabled

#Under SB 340, cost savings may be realized for lower contractual needs

Total Estimated Savings \$5,953,800

provided by:
Senator Phillips

SITE: ANCHORAGE LIO

COMMITTEE: SFIN

DATE: 4-3-02

SUBJECT OF MEETING:

UPDATE #:



P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

DO YOU WANT
TO TESTIFY?
Y or N

Susan Sullivan		CSED	Ans ?s
Email address:			SB 340
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			

SB 340-HOLD HARMLESS PROVISIONS OF PFD PROGRAM
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: PEGGY BROWN Subject/Bill No: _____
ALASKA NETWORK ON DOMESTIC VIOLENCE & SEXUAL ASSAULT
Co./Dept./Title: (ANDUSA) / POLICY ANALYST Phone: 6-3650
Address: 130 SEWARD ST # 205 JUNO Zip: 99801

Do you wish to testify? ___ Yes No ___ Respond To Questions

NAME: Nellie Jones Subject/Bill No: _____
Co./Dept./Title: Revenue - PFD Phone: 2323
Address: 50B - 11th Floor Zip: _____

Do you wish to testify? ___ Yes ___ No Respond To Questions

NAME: Jim Nordlund Subject/Bill No: _____
Co./Dept./Title: DPA/DHSS Director Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes ___ No ___ Respond To Questions

NAME: Jon Skerwood Subject/Bill No: _____
Co./Dept./Title: OMA/DHSS / (Hybrid) Policy Mngmt. Phone: _____
Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No Respond To Questions

SB 340-HOLD HARMLESS PROVISIONS OF PFD PROGRAM
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: Jon Sherwood Subject/Bill No: SB 340
Co./Dept./Title: Dir. of Medical Assistance Phone: 465-5820
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

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SITE: ANCHORAGE LIO

COMMITTEE: SFIN

DATE: 4-3-02

SUBJECT OF MEETING:

SB 340

UPDATE #:



P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

DO YOU WANT
TO TESTIFY?
Y or N

Daryl Nelson		Access Alaska	Y-SB 340
Email address:			
Susan Sullivan		Child Support	Y-SB 340
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			

SITE: FAIRBANKS LIO

COMMITTEE: SFIN

DATE: 4/3/2002

SUBJECT OF MEETING:

SB 340

UPDATE # 1:



PLEASE SIGN IN

P R I N T YOUR NAME

DO YOU WANT

ADDRESS (MAILING & ZIP)

REPRESENTING

TO TESTIFY?
Y or N

Nanci Jones		PFD Director	Y SB 340
Email address:			To Answer questions
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			

SB

341

SFIN

FILE

SB 341

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2327
Fax: (907) 465-5241



Interim:
119 N. Cushman
Fairbanks, AK 99701
Phone: (907) 456-8161
Fax: (907) 456-8163

Senator Pete Kelly
District P

SB 341 Sponsor Statement

“An Act making a special appropriation for a study of recipients of welfare and Medicaid; and providing for an effective date.”

In the past decade entitlement programs in the state budget have increased at an alarming rate. Although the Department of Health and Social Services can identify which programs are increasing, there is limited data on the underlying causes of welfare dependency.

SB341 is an appropriations bill to study why people initially become dependant on welfare programs. Contributing factors may be:

- ◆ teen pregnancy
- ◆ drug addiction
- ◆ education level
- ◆ un-wed mothers
- ◆ divorce
- ◆ criminal history
- ◆ domestic violence or child abuse

In order to help people become self-sufficient we must have a better understanding of what causes this dependency. Policymakers and welfare administrators have an obligation to help these individuals, but first must understand the causes that have led to a growing amount of funds allocated towards the programs aimed at these individuals.

SB 341 will appropriate \$200,000 from the general fund to the Legislative Council for a contract to conduct a study of individuals on welfare and Medicaid programs. This sociological and demographic analysis will determine how and why people become recipients of these programs.

SB 341-APPROP:STUDY WELFARE /MEDICAID RECIPIENTS
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: Peggy Brown Subject/Bill No: _____
Co./Dept./Title: ANDUSA / PUBLIC POLICY ANALYST Phone: 586 3650
Address: 130 Seward St # 209 JNO Zip: 99801

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

SB

342

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/13/02

REPORTED OUT

MAR 20 2002

SENATE FINANCE COMMITTEE

FURTHER:

DATE TURNED IN TO OFFICE: 25 March 2002

Finance Committee considered

SENATE BILL NO. 342

"An Act relating to the long term care ombudsman."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS SB 342 (HES)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Admin.	3/4/02		✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			



STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 342
(S) Publish Date: 3/13/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An Act Relating to the Long Term Care Ombudsman BRU: Central Administrative Services
Component: Protection, Community Services
Sponsor: (S) HES Administration
Requester: (S) HES Component No.: 2083

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: _____
Check the box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will have no significant fiscal impact on the Department.

Prepared by: Dwight Becker, Program Coordinator Phone 907-269-3674
Division: Senior Services Date/Time 3/4/02 12:10 PM
Approved by: Jim Duncan, Commissioner Date 3/4/2002
Agency: Department of Administration

ALASKA STATE LEGISLATURE



Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT N

Sponsor Statement CS Senate Bill 342

Long-Term Care Ombudsman

The each state is required to have a long term care ombudsman under the Older Americans Act. Alaska's long term care ombudsman is located in the Alaska Mental Health Trust Authority. Recently, the long term care ombudsman resigned, citing frustration with Alaska's statutes as one of the reasons for leaving.

Discussion with the executive director of the Alaska Mental Health Trust led to the filing of Senate Bill 342 which brings Alaska's statutes in line with the federal law.

Specifically, SB 342:

- directs the long term care ombudsman to visit long term care facilities and identify problems rather than assuming the more passive role of only responding to complaints;
- provides that no long term care facility may deny immediate access to an employee or volunteer from the long term care ombudsman's office who is responding to a complaint;
- give the long term care ombudsman an active role in developing and providing technical support to volunteer organizations which are interested in the health, safety, welfare and rights of older Alaskans

The long term care ombudsman's role is critical in protecting the health and safety of our most vulnerable older Alaskans. It is essential that we provide the office with the tools necessary to do this job.

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[TITLE 42](#) > [CHAPTER 35](#) > [SUBCHAPTER XI](#) > [Part A](#) > [subpart ii](#) > [Sec. 3058g.](#)

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Sec. 3058g. - State Long-Term Care Ombudsman program

(a) Establishment

(1) In general

In order to be eligible to receive an allotment under section [3058b](#) of this title from funds appropriated under section [3058a\(a\)](#) of this title, a State agency shall, in accordance with this section -

(A)

establish and operate an Office of the State Long-Term Care Ombudsman; and

(B)

carry out through the Office a State Long-Term Care Ombudsman program.

(2) Ombudsman

The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

(3) Functions

The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office -

(A)

identify, investigate, and resolve complaints that -

(i)

are made by, or on behalf of, residents; and

Search this title:

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[Notes](#)

[Updates](#)

[Parallel authorities \(CFR\)](#)

[Topical references](#)

(ii)

relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of -

(I)

providers, or representatives of providers, of long-term care services;

(II)

public agencies; or

(III)

health and social service agencies;

(B)

provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C)

inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D)

ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E)

represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F)

provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G)

(i)

analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

(ii)

recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii)

facilitate public comment on the laws, regulations, policies, and actions;

(II)

(i)

provide for training representatives of the Office;

(ii)

promote the development of citizen organizations, to participate in the program; and

(iii)

provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

(I)

carry out such other activities as the Assistant Secretary determines to be appropriate.

(4) Contracts and arrangements

(A) In general

Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) Licensing and certification organizations; associations

The State agency may not enter into the contract or other arrangement described in subparagraph (A) with -

(i)

an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

(ii)

an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

(5) Designation of local Ombudsman entities and representatives

(A) Designation

In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee

or volunteer to represent the entity.

(B) Duties

An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency -

(i)

provide services to protect the health, safety, welfare ⁽¹⁾ So in original. Probably should be followed by a comma.

(ii)

ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;

(iii)

identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;

(iv)

represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(v)

(I)

review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and

(II)

facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

(vi)

support the development of resident and family councils; and

(vii)

carry out other activities that the Ombudsman determines to be appropriate.

(C) Eligibility for designation

Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall -

(i)

have demonstrated capability to carry out the responsibilities of the Office;

(ii)

be free of conflicts of interest;

(iii)

in the case of the entities, be public or nonprofit private entities; and

(iv)

meet such additional requirements as the Ombudsman may specify.

(D) Policies and procedures

(i) In general

The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.

(ii) Policies

In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

(iii) Confidentiality and disclosure

The State agency shall develop the policies and procedures in accordance with all provisions of this part regarding confidentiality and conflict of interest.

(b) Procedures for access

(1) In general

The State shall ensure that representatives of the Office shall have -

(A)

access to long-term care facilities and residents;

(B)

(i)

appropriate access to review the medical and social records of a resident, if -

(I)

the representative has the permission of the resident, or the legal representative of the resident; or

(II)

the resident is unable to consent to the review and has no legal representative; or

(ii)

access to the records as is necessary to investigate a complaint if -

(I)

a legal guardian of the resident refuses to give the permission;

(II)

a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(III)

the representative obtains the approval of the Ombudsman;

(C)

access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and

(D)

access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

(2) Procedures

The State agency shall establish procedures to ensure the access described in paragraph (1).

(c) Reporting system

The State agency shall establish a statewide uniform reporting system to -

(1)

collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and

(2)

submit the data, on a regular basis, to -

(A)

the agency of the State responsible for licensing or certifying long-term care facilities in the State;

(B)

other State and Federal entities that the Ombudsman determines to be appropriate;

(C)

the Assistant Secretary; and

(D)

the National Ombudsman Resource Center established in section 3012(a)(21) of this title.

(d) Disclosure

(1) In general

The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c) of this section.

(2) Identity of complainant or resident

The procedures described in paragraph (1) shall -

(A)

provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

(B)

prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless -

(i)

the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

(ii)

(I)

the complainant or resident gives consent orally; and

(II)

the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or

(iii)

the disclosure is required by court order.

(e) Consultation

In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

(f) Conflict of interest

The State agency shall -

(1)

ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5) of this section, is subject to a conflict of interest;

(2)

ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;

(3)

ensure that the Ombudsman -

(A)

does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

(B)

does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

(C)

is not employed by, or participating in the management of, a long-term care facility; and

(D)

does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and

(4)

establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as -

(A)

the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

(B)

the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

(g) Legal counsel

The State agency shall ensure that -

(1)

(A)

adequate legal counsel is available, and is able, without conflict of interest, to -

(i)

provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and

(ii)

assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

(B)

legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and

(2)

the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

(h) Administration

The State agency shall require the Office to -

(1)

prepare an annual report -

(A)

describing the activities carried out by the Office in the year for which the report is prepared;

(B)

containing and analyzing the data collected under subsection (c) of this section;

(C)

evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

(D)

containing recommendations for -

(i)

improving quality of the care and life of the residents; and

(ii)

protecting the health, safety, welfare, and rights of the residents;

(E)

(i)

analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and

(ii)

identifying barriers that prevent the optimal operation of the program; and

(F)

providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

(2)

analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

(3)

(A)

provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding -

(i)

the problems and concerns of older individuals residing in long-term care facilities; and

(ii)

recommendations related to the problems and concerns; and

(B)

make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities,

and other appropriate governmental entities, each report prepared under paragraph (1);

(4)

(A)

not later than 1 year after September 30, 1992, establish procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that -

(i)

specify a minimum number of hours of initial training;

(ii)

specify the content of the training, including training relating to -

(I)

Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

(II)

investigative techniques; and

(III)

such other matters as the State determines to be appropriate; and

(iii)

specify an annual number of hours of in-service training for all designated representatives; and

(B)

require implementation of the procedures not later than 21 months after September 30, 1992;

(5)

prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) of this section unless the representative -

(A)

has received the training required under paragraph (4); and

(B)

has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

(6)

coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under -

(A)

part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.); and

(B)

the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

(7)

coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 3026(a)(2)(C) of this title, through adoption of memoranda of understanding and other means; and

(8)

permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).

(i) Liability

The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(j) Noninterference

The State shall -

(1)

ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;

(2)

prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

(3)

provide for appropriate sanctions with respect to the interference, retaliation, and reprisals

[1] and rights of residents;

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The TRUST

The Alaska Mental Health Trust Authority

March 5, 2002

Senator Lyda Green
Chair
Senate Health, Education and Social Services Committee
State Capital
Juneau, Alaska 99811

Dear Senator Green,

I have reviewed the comments submitted by the Alaska State Hospital and Nursing Home Association (ASHNHA) dated March 5, 2002 concerning SB 342. Unfortunately these comments contain a number of serious factual errors.

The ASHNHA comments state that current Alaska law is consistent with 42 USC 42.3058G which requires that the "Ombudsman shall...personally or through representatives of the office- (A) identify, investigate, and resolve complaints that are made by, or on behalf of residents;". AS 47.62.015(a) currently provides that "(T)he ombudsman shall investigate and resolve a complaint made by or on behalf of and older Alaskan who resides in a long term care facility in the state...". Clearly, contrary to ASHNHA's assertion, current Alaska law does not specify that the Ombudsman or a representative shall "identify" complaints as required by federal law. This is the very issue placed in dispute by some assisted living care providers, and reflected in ASHNHA's comments, where they contend that the Ombudsman or representative should only have access to a home or resident if a complaint has already been received by the office. Such a restriction would certainly not serve to protect this extremely vulnerable population many of whom are physically and/or mentally unable to lodge such a complaint even assuming they are cognitively aware of problems involving their care.

The ASHNHA comments also state that "It is not in the (federal) law that the ombudsman shall visit the residents, the resident's representatives, and others to identify complaints". In fact, 42 USC 3058g (D) states that the Ombudsman or a representative shall "ensure that the residents have regular and timely access to the services provided through the Office ..." (emphasis added) As discussed above, one of the core services of the Ombudsman is the identification of complaints. There is no way that the Office can meet this mandate without having access to the facilities where the residents live. Further, the ASHNHA comment, allege that such access "would direct the ombudsman to come into any facility and "search" for possible problems. The term "search" is not contained in SB 342 and is not contemplated in federal law or by SB 342.

ASHNHA also objects to Section 3 (f) of the bill providing for "technical support for the development of resident councils and family councils whose members are interested in protecting the well-being and rights of or the residents of long term care facilities in the state" as it "goes beyond the federal law, is not needed by residents in Alaska nursing homes and should not be a requirement". Again, contrary to this assertion, 42 USC 3058 (H) (iii) states that the Ombudsman or a representative shall "provide technical support for the development of resident and family councils to protect the well-being and rights of the residents". ASHNHA's presumptuous belief that such councils are "not needed by residents" is a strong argument in favor of their creation and support.

ASHNHA's remaining concerns regarding Section 3 (g) and Section 4 of SB 342 involve the use of volunteers to fulfill the duties of the office. The federal law repeatedly and consistently refers to the duties of the office being carried out by the "Ombudsman or through representatives" (see above) In 42 USC 3058 (f) the term "representative" is defined as "an employee or volunteer ...who is individually designated by the Ombudsman".

Despite the invalidity of these arguments in opposition to SB 342, we are cognizant of and sensitive to the concerns that exist relating to the prior operation of the office and its volunteers. We will work closely with ASHNHA and its members as well as other providers, residents and family members to ensure that the volunteer program is properly run and contributes to the improvement of care for Alaska's elders instead of being an adversarial and time consuming burden to care providers already beset by many obstacles that stand in their way of providing the very highest level of care possible. In addition, we will be held accountable for the actions of the office and will provide procedures whereby aggrieved providers can complain to the Ombudsman, myself, the Trustees of the Trust Authority and ultimately to the legislature to see that the office and its representatives act appropriately and in the best interests of the residents of Alaska's long term care facilities.

Sincerely,



Jeffrey L. Jessee
Executive Director

Alaska State Hospital & Nursing Home Association

We're helping people care for people!

March 5, 2002

Senator Lyda Green
Chair
Senate Health Education and Social Services Committee
State Capitol
Juneau, AK 99811

Dear Senator Green:

I am writing in opposition to SB 342, "An Act relating to the long term care ombudsman." It was stated in the first hearing of the committee that this proposed legislation was to bring Alaska Statutes in line with federal code. I have searched Sec. 3058g, the State Long-Term Care Ombudsman program, and cannot find several of the additions.

In regard to Section 1: Under Federal law 3058.g it allows the Ombudsman to "identify, investigate, and resolve complaints that are made by, or on behalf of residents..." The current Alaska Law is consistent with this federal law. The proposed amendments appear to create a higher standard than the Federal Law. It is not in law that the ombudsman shall visit the residents, the residents' representatives, and others in order to identify complaints. This would direct the ombudsman to come into any facility and "search" for possible problems. We have no problem with access once the complaint has been made. There has not been a demonstrated need for this higher standard and the additional resources it will cause.

Section 2: No objections.

Section 3: (d) No objections.

(e) No objections.

(f) This goes beyond the federal law, is not needed by residents in Alaska nursing homes and should not be a requirement.

(g) I cannot find (1) and (2) in the federal code where it allows volunteers to have these duties.

Section 4: The federal code 483.10 (j) (1) and (2) allows immediate access to the Long Term Care Ombudsman who is investigating a complaint but not for volunteers. It is not appropriate for volunteers to have immediate access.

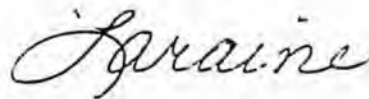
426 Main Street, Juneau, Alaska 99801

Phone: 907-586-1790 • Fax: 907-463-3573 • Web: ashnha.com

I am attaching a list of specific concerns from one of ASHNHA's members that addresses some of the issues with this legislation.

If you have questions, please contact me.

Sincerely yours.

A handwritten signature in cursive script that reads "Laraine".

Laraine L. Derr
President/CEO

Attachment

According to an ASHNHA long term care facility administrator:

I am opposed to the amendments of SB 342. I am not aware of any unresolved complaints in Alaska nursing homes. These amendments will create a very time consuming process for staff, will pull staff away from patient care and could become quite negative when ombudsman and volunteers are identifying complaints on all visits. It could also create staff turnover as employees really do not like working in a job where they are frequently being watched over their shoulder and second-guessed about the judgements they make. All facilities attempt to create a positive atmosphere and not one that is always looking for the negative. This bill will cause more problems (less care) than it solves. The past State ombudsman stated that the job is too difficult. This bill would make it much more difficult and potentially much more adversarial with facilities.

I believe the State currently adequately allocates scarce resources to the complaint investigation process and that there are no significant problems in nursing homes that require this negativity. It is part of the State and Federal Surveyors' job to identify complaints. In Anchorage both facilities are surveyed twice a year by State and/or Federal Surveyors and the rest of Alaska is approximately once a year. As you are aware each survey involves approximately 6-8 surveyors for one week closely reviewing all aspects of quality of care and quality of life. In addition, one Anchorage nursing home had 7 complaint investigations by State Surveyors last year and each time was found to be in compliance with all regulations. In the past 6 years, as an administrator, I can only remember 3 complaint investigations by the ombudsman and 1 of these resulted in a follow-up deficiency from the State Surveyors. All 3 of these issues were complex issues that the facility was closely monitoring and attempting to resolve. The most effective role of the ombudsman has occurred when they act as an intermediary trying to solve the unresolved complaint by helping both parties see the problem from the other's perspective and trying to work through it. The likelihood of this occurring is reduced if the focus is shifted to identifying complaints. We are also required to provide and explain all resident rights to the residents which includes the right to have complaints followed up on by the facility and how to contact the ombudsman and other state officials. We are also required to post the rights, the ombudsman phone and address, and Survey results in conspicuous locations in the building. We must also provide a qualified social worker who is trained and required to assist residents in these and other types of matters. Volunteer Ombudsman and possibly even the Ombudsman and Assistant Ombudsman will not have this level of training nor the day-to-day experience of providing nursing home care. All staff are also required to report within 24 hours to Licensing and Certification if they have reasonable cause to believe that a resident has incurred an injury of an unknown source, willful or reckless nonaccidental physical harm or mental distress including humiliation, harassment, threats of punishment, etc and any misappropriation of resident property. I am sure that there are other safeguards that directly apply to this issue that we must meet and that I am not thinking of. I believe the current safeguards are working effectively as I have never seen any information that there are any significant levels of unresolved complaints in any nursing home in the state.

State resources are limited and I believe there should be an appropriate division of labor between the survey agency and the ombudsman office. Also, this will take time away from patient care within the facilities. We need to use scarce resources where they are most needed and there has not been a demonstrated need to identify complaints in Alaska's nursing homes.

*Presented by Carl Garber
Providence Health Care
Mary Conrad Center*

Congress looks into abuse at nursing homes

■ **VULNERABLE:** Lawmaker says criminal actions in care facilities go unreported.

By Knight Ridder Newspapers

WASHINGTON -- A 66-year-old dementia patient knocked 83-year-old Helen Straukamp unconscious by slamming her against a wall in their Evansville, Ind., nursing home. No one called the police. No one told the hospital treating her that she was the victim of an attack. Three weeks later, in October 1999, she died.

A nursing assistant in Orlando, Fla., was charged with rape last year after DNA tests identified him as the father of a child delivered by a 37-year-old stroke victim who was paralyzed, incontinent and brain damaged.

Such cases of abuse from fellow patients and caregivers have captured the attention of some members of Congress who don't believe state and federal agencies are doing enough to shield nursing home patients from physical and sexual abuse.

"There is a tendency not to report criminal activity in nursing homes," said Sen. John Breaux of Louisiana,

the Democratic chairman of the Senate's Special Committee on Aging. "We made child abuse a priority. These people are more vulnerable than children."

A General Accounting Office report scheduled for release Monday that studied abuse files in Pennsylvania, Georgia and Illinois is expected to show that nursing homes in those states fail to refer complaints to proper authorities in a timely manner, damaging investigations and prosecutions.

It also will show that state agencies are more likely to recommend corrective action rather than civil penalties against nursing homes cited in abuse cases, that police agencies are not properly trained to investigate abuse against the elderly and that statistics about such crimes are practically nonexistent.

Breaux has scheduled a hearing for Monday to examine the incidence of sexual and physical abuse of nursing home residents and to hear recommendations on how to guard them.

The American Health Care Association, which represents most of the nation's skilled care facilities, said it

welcomed the congressional spotlight but rejected any suggestions that abuse is on the rise.

Federally required state surveys found that for the fiscal year ending June 2001, the latest reporting period, 2.21 percent of nursing homes were cited for abuse or neglect that caused harm to a resident. The total for the same period ending the previous fiscal year was 3.18 percent. In fiscal 1999, it was 2.91 percent.

"The bad actions of 2 percent of nursing homes overshadow the good works of the hundreds of thousands of health care professionals who are providing quality compassionate care," said Alan DeFend, association spokesman.

Pennsylvania, Georgia and Illinois are among the states with the highest nursing home populations. The GAO investigation is expected to show that in half of the 111 cases reviewed, nursing homes submitted reports days or weeks after the alleged abuse had taken place, even though they are required to report within 24 hours of learning of an allegation.

Such delays, officials say, can hinder police investigations.

Recent studies found that nursing home officials often are skeptical that abuse has occurred or that residents fear retribution if they report an assault. Police officers and state health officials in the three states also told GAO investigators that nursing homes fear bad publicity or state sanctions if they report abuse.

In Straukamp's case, emergency room doctors were not told about the assault.

"They were told it was a fall," said Straukamp's daughter-in-law, Barbara Becker.

Four months later, after Straukamp's family pressed for answers, state health officials fined the nursing home for a series of "serious deficiencies."

But GAO investigators determined that when state agencies find nursing homes responsible for incidents of abuse, officials seldom fine them. Of the 158 case files reviewed in the three states, 26 nursing homes were found to have deficiencies that contributed to the abuse. Only one was ordered to pay a fine.

State officials and nursing home operators maintain that fines can put

homes out of business, leaving residents and their families scrambling for new accommodations. They say it is preferable to force homes to fix conditions that contributed to the abuse.

"Every time you take resources that would otherwise be used for patient care, you should take a good, hard look at that," DeFend said.

Though the federal government prohibits nursing homes from hiring staff members who have been convicted of abusing elderly patients, it does not forbid them from hiring people who have committed other violent crimes, such as child abuse.

It also does not require nursing home employees to undergo criminal background checks.

Some states have taken steps to speed reporting and prosecutions. In Arkansas, coroners or medical examiners have been required since 1999 to investigate every nursing home death.

In 2000, Mark Malcolm, the coroner in Little Rock, referred 21 deaths for further investigation. Last year, he referred 13.

"I will say this, the level of care in nursing homes in this county today is better than it was July 1, 1999," he said.

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SFIN

FILE

SB 344

was referred to the
Senate Finance
Committee

No hearing was held
on this bill

SB

345

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 345
(S) Publish Date: 3/18/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: SCHOOL BASED MEDICAL ASSISTANCE FOR CHILDREN WITH DISABILITIES BR1# Medical Assistance Admin
Component: Health Purchasing Group
Sponsor: SENATE (HES)
Requestor: SENATE (HES) Component Number: 243

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	76.5	76.5	97.3	97.3	97.3	97.3
Travel	5.0	5.0	5.0	6.0	7.0	8.0
Contractual	56.5		6.5			
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	138.0	81.5	108.8	103.3	104.3	105.3

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

CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts	85.9	40.7	54.4	51.6	52.1	52.6
1003 GF Match	52.1	40.8	54.4	51.7	52.2	52.7
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--do not abbreviate)						
TOTAL	138.0	81.5	108.8	103.3	104.3	105.3

Estimate of any current year (FY2002) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

POSITIONS	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Full-time	1	1	1	1	1	1
Part-time			1	1	1	
Temporary						1

ANALYSIS: (Attach a separate page if necessary)

Administrative costs associated with this legislation include \$50.0 to modify the MMIS to allow school districts to submit claims. This would be a one-time, FY03 contractual cost, and is eligible for 75% federal funding. One full time, range 20 position in the Health Policy and Programs unit would be required to develop policy and support school district claiming efforts, beginning in FY 03. The position would require \$76.5 in personal services and \$5.0 in travel annually and \$6.5 in start-up contractual costs. Eventually, in FY 05, the volume of claims would require one half-time, range 10 accounting clerk position to track expenditures and recover the state match from school districts, as provided for in legislation. This position would require \$20.8 in personal services annually.

Prepared by: Jon Sherwood Phone 465-3355
Division: Medical Assistance Date/Time 03/05/2002
Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 03/06/2002
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 345
(S) Publish Date: 3/27/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: SCHOOL BASED MEDICAL ASSISTANCE FOR CHILDREN WITH DISABILITIES BRU: Medical Assistance
Component: Medicaid Services
Sponsor: SENATE (HES)
Requestor: SENATE (HES) Component Number: 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	787.5	3,937.5	7,875.0	7,875.0	7,875.0	7,875.0
Miscellaneous						
TOTAL OPERATING	787.5	3,937.5	7,875.0	7,875.0	7,875.0	7,875.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts	458.9	2,294.4	4,588.8	4,588.8	4,588.8	4,588.8
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stal Desig	328.6	1,643.1	3,286.2	3,286.2	3,286.2	3,286.2
TOTAL	787.5	3,937.5	7,875.0	7,875.0	7,875.0	7,875.0

Estimate of any current year (FY2002) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill would enable school districts to bill Medicaid for services provided to Medicaid-eligible children in special education programs. Districts would reimburse the Department of Health and Social Services for the state match required. There would be no net increase in state general fund match for Medicaid (see related fiscal note for administrative costs).

See attached page for assumptions.

Prepared by: Jon Sherwood Phone 465-3355
Division: Medical Assistance Date/Time 03/05/2002
Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 03/06/2002
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 345 #2

ANALYSIS CONTINUATION

Assumptions:

Alaska school districts provide approximately \$45 million in special education support services annually.

Approximately 35 percent of children receiving special education services are eligible for Medicaid.

At full implementation, approximately 50 percent of special education support services provided to Medicaid eligible children will qualify for Medicaid reimbursement; the remainder will fall outside of Medicaid service definitions or will be provided by smaller districts who choose not to bill Medicaid

Legislation will be fully implemented by FY 05. FY 03 Medicaid service expenditures will be 10 percent of FY 05 expenditures. FY 04 expenditures will be 50 percent of FY 05 expenditures.

Federal share of Medicaid Service expenditures will be 58.27 percent.

School districts will reimburse the Department for the state match (shown as statutory designated program receipts).

Cost of Services under full implementation:

FY 05 @ \$45,000.0 x 35% x 50% = \$7,875.0.

FY 06 @ \$45,000.0 x 35% x 50% = \$7,875.0.

FY 07 @ \$45,000.0 x 35% x 50% = \$7,875.0.

FY 08 @ \$45,000.0 x 35% x 50% = \$7,875.0.

Start-up years:

FY 03 @ 10% of FY 05 = \$ 787.5

FY 04 @ 50% of FY 05 = \$3,937.5

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 345
 (S) Publish Date: 3/27/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: SCHOOL BASED MEDICAL ASSISTANCE FOR CHILDREN WITH DISABILITIES BRU: Medical Assistance
 Component: Medicaid Services
 Sponsor: SENATE (HES)
 Requestor: SENATE (HES) Component Number: 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	787.5	3,937.5	7,875.0	7,875.0	7,875.0	7,875.0
Miscellaneous						
TOTAL OPERATING	787.5	3,937.5	7,875.0	7,875.0	7,875.0	7,875.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	458.9	2,294.4	4,588.8	4,588.8	4,588.8	4,588.8
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stal Desig	328.6	1,643.1	3,286.2	3,286.2	3,286.2	3,286.2
TOTAL	787.5	3,937.5	7,875.0	7,875.0	7,875.0	7,875.0

Estimate of any current year (FY2002) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would enable school districts to bill Medicaid for services provided to Medicaid-eligible children in special education programs. Districts would reimburse the Department of Health and Social Services for the state match required. There would be no net increase in state general fund match for Medicaid (see related fiscal note for administrative costs).

See attached page for assumptions.

Prepared by: Jon Sherwood Phone 465-3355
 Division: Medical Assistance Date/Time 03/05/2002
 Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 03/06/2002
 Agency: Department of Health & Social Services

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 345 #2

ANALYSIS CONTINUATION

Assumptions:

Alaska school districts provide approximately \$45 million in special education support services annually.

Approximately 35 percent of children receiving special education services are eligible for Medicaid.

At full implementation, approximately 50 percent of special education support services provided to Medicaid eligible children will qualify for Medicaid reimbursement; the remainder will fall outside of Medicaid service definitions or will be provided by smaller districts who choose not to bill Medicaid.

Legislation will be fully implemented by FY 05. FY 03 Medicaid service expenditures will be 10 percent of FY 05 expenditures. FY 04 expenditures will be 50 percent of FY 05 expenditures.

Federal share of Medicaid Service expenditures will be 58.27 percent.

School districts will reimburse the Department for the state match (shown as statutory designated program receipts).

Cost of Services under full implementation:

FY 05 @ \$45,000.0 x 35% x 50% = \$7,875.0.

FY 06 @ \$45,000.0 x 35% x 50% = \$7,875.0.

FY 07 @ \$45,000.0 x 35% x 50% = \$7,875.0.

FY 08 @ \$45,000.0 x 35% x 50% = \$7,875.0.

Start-up years:

FY 03 @ 10% of FY 05 = \$ 787.5

FY 04 @ 50% of FY 05 = \$3,937.5

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 345
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Component: Health Purchasing Group
Sponsor: SENATE (HES)
Requestor: SENATE (HES) Component Number: 243

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	76.5	76.5	97.3	97.3	97.3	97.3
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Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	138.0	81.5	108.8	103.3	104.3	105.3

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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Other (Specify Type--do not abbreviate)						
TOTAL	138.0	81.5	108.8	103.3	104.3	105.3

Estimate of any current year (FY2002) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time			1	1	1	
Temporary						1

ANALYSIS: (Attach a separate page if necessary)

Administrative costs associated with this legislation include \$57.0 to modify the MMIS to allow school districts to submit claims. This would be a one-time, FY03 contractual cost, and is eligible for 75% federal funding. One full time, range 20 position in the Health Policy and Programs unit would be required to develop policy and support school district claiming efforts, beginning in FY 03. The position would require \$76.5 in personal services and \$5.0 in travel annually and \$6.5 in start-up contractual costs. Eventually, in FY 05, the volume of claims would require one half-time, range 10 accounting clerk position to track expenditures and recover the state match from school districts, as provided for in legislation. This position would require \$20.8 in personal services annually.

Prepared by: Jon Sherwood Phone 465-3355
Division: Medical Assistance Date/Time 03/05/2002
Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 03/06/2002
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

ALASKA STATE LEGISLATURE



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Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT N

Sponsor Statement CS Senate Bill 345

Under the federal Individuals Disabilities Education Act (IDEA), school districts are required to provide rehabilitative services to qualifying students. Currently the federal government pays approximately 16% of the costs of services required by IDEA and the balance is paid out of the foundation formula with a mix of state and local funding. To the extent that these students qualify for Medicaid, federal law allows for schools to bill the state Medicaid program for many of these services. However, Alaska state law does not authorize school districts to be Medicaid providers. Senate Bill 345 authorizes the Alaska Department of Health and Social Services to promulgate the necessary regulations and to contract with school districts to reimburse the districts for rehabilitative services for students who qualify under the Medicaid program. Currently 42 other states fund school-based services through the Medicaid program.

Under the provisions of SB 345, the school district pays the state match for the Medicaid services it receives. The only state cost under this bill is the cost of promulgating the regulations and some small administrative costs. School districts benefit by receiving the federal matching dollars under the Medicaid program for services that they must provide, regardless of how they are funded. For each school district dollar expended for these covered services, the school district would receive approximately \$1.50 in additional federal dollars, which can help defray the costs of providing special education services.

SB

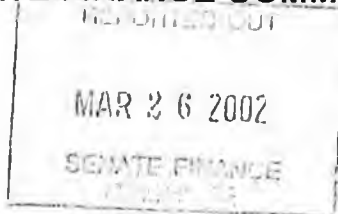
345

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/18/02



FURTHER:

DATE TURNED IN TO OFFICE: 03/26/02

Finance Committee considered **SENATE BILL NO. 345**

SB 345 SCHOOL SERVICES FOR DISABLED STUDENTS

"An Act relating to medical assistance for rehabilitative services for certain children with disabilities; relating to agreements to pay medical assistance for covered services paid for or furnished to eligible children with disabilities by a school district; 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 _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DHSS	3/6/02	787.5		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DHSS	3/5/02	138.0		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Lynda Green</i>	✓			
<i>John Luster</i>	✓			
<i>Richard C. Olson</i>			✓	
<i>Danny Wilton</i>	✓			
<i>David Leman</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			

REPORT

FISCAL NOTE

MAR 26 2002

STATE OF ALASKA
2002 LEGISLATIVE SESSION

SENATE
COM

Fiscal Note Number: _____
Bill Version: SB 345
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: SCHOOL BASED MEDICAL ASSISTANCE FOR CHILDREN WITH DISABILITIES BRU: Medical Assistance
Component: Medicaid Services
Sponsor: SENATE (HES)
Requestor: SENATE (HES) Component Number: 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	787.5	3,937.5	7,875.0	7,875.0	7,875.0	7,875.0
Miscellaneous						
TOTAL OPERATING	787.5	3,937.5	7,875.0	7,875.0	7,875.0	7,875.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
--------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	458.9	2,294.4	4,588.8	4,588.8	4,588.8	4,588.8
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat Desig	328.6	1,643.1	3,286.2	3,286.2	3,286.2	3,286.2
TOTAL	787.5	3,937.5	7,875.0	7,875.0	7,875.0	7,875.0

Estimate of any current year (FY2002) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would enable school districts to bill Medicaid for services provided to Medicaid-eligible children in special education programs. Districts would reimburse the Department of Health and Social Services for the state match required. There would be no net increase in state general fund match for Medicaid (see related fiscal note for administrative costs).

See attached page for assumptions.

Prepared by: Jon Sherwood Phone 465-3355
Division: Medical Assistance Date/Time 03/05/2002
Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 03/06/2002
Agency: Department of Health & Social Services

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 345

ANALYSIS CONTINUATION

Assumptions:

Alaska school districts provide approximately \$45 million in special education support services annually.

Approximately 35 percent of children receiving special education services are eligible for Medicaid.

At full implementation, approximately 50 percent of special education support services provided to Medicaid eligible children will qualify for Medicaid reimbursement; the remainder will fall outside of Medicaid service definitions or will be provided by smaller districts who choose not to bill Medicaid.

Legislation will be fully implemented by FY 05. FY 03 Medicaid service expenditures will be 10 percent of FY 05 expenditures. FY 04 expenditures will be 50 percent of FY 05 expenditures.

Federal share of Medicaid Service expenditures will be 58.27 percent.

School districts will reimburse the Department for the state match (shown as statutory designated program receipts).

Cost of Services under full implementation:

FY 05 @ \$45,000.0 x 35% x 50% = \$7,875.0.

FY 06 @ \$45,000.0 x 35% x 50% = \$7,875.0.

FY 07 @ \$45,000.0 x 35% x 50% = \$7,875.0.

FY 08 @ \$45,000.0 x 35% x 50% = \$7,875.0.

Start-up years:

FY 03 @ 10% of FY 05 = \$ 787.5

FY 04 @ 50% of FY 05 = \$3,937.5

REPORTED OUT
FISCAL NOTE
 MAR 26 2002
 SENATE FINANCE
 COMMITTEE

STATE OF ALASKA
 2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SL 345
 (S) Publish Date: 3/18/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: SCHOOL BASED MEDICAL ASSISTANCE FOR CHILDREN WITH DISABILITIES BRU: Medical Assistance Admin
 Component: Health Purchasing Group
 Sponsor: SENATE (HES)
 Requestor: SENATE (HES) Component Number: 343

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	76.5	76.5	97.3	97.3	97.3	97.3
Travel	5.0	5.0	5.0	5.0	7.0	8.0
Contractual	56.5		6.5			
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	138.0	81.5	108.8	103.3	104.3	105.3

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

CHANGE IN REVENUES (0)						
--------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts	85.9	40.7	54.4	51.6	52.1	52.6
1003 GF Match	52.1	40.8	54.4	51.7	52.2	52.7
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--do not abbreviate)						
TOTAL	138.0	81.5	108.8	103.3	104.3	105.3

Estimate of any current year (FY2002) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time			1	1	1	
Temporary						1

ANALYSIS: (Attach a separate page if necessary)

Administrative costs associated with this legislation include \$50.0 to modify the MMIS to allow school districts to submit claims. This would be a one-time, FY03 contractual cost, and is eligible for 75% federal funding. One full time, range 20 position in the Health Policy and Programs unit would be required to develop policy and support school district claiming efforts, beginning in FY 03. The position would require \$76.5 in personal services and \$5.0 in travel annually and \$6.5 in start-up contractual costs. Eventually, in FY 05, the volume of claims would require one half-time, range 10 accounting clerk position to track expenditures and recover the state match from school districts, as provided for in legislation. This position would require \$20.8 in personal services annually.

Prepared by: Jon Sherwood Phone 465-3355
 Division: Medical Assistance Date/Time 03/05/2002
 Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 03/06/2002
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

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SENATOR LYDA GREEN SENATE DISTRICT N

Sponsor Statement CS Senate Bill 345

Under the federal Individuals Disabilities Education Act (IDEA), school districts are required to provide rehabilitative services to qualifying students. Currently the federal government pays approximately 16% of the costs of services required by IDEA and the balance is paid out of the foundation formula with a mix of state and local funding. To the extent that these students qualify for Medicaid, federal law allows for schools to bill the state Medicaid program for many of these services. However, Alaska state law does not authorize school districts to be Medicaid providers. Senate Bill 345 authorizes the Alaska Department of Health and Social Services to promulgate the necessary regulations and to contract with school districts to reimburse the districts for rehabilitative services for students who qualify under the Medicaid program. Currently 42 other states fund school-based services through the Medicaid program.

Under the provisions of SB 345, the school district pays the state match for the Medicaid services it receives. The only state cost under this bill is the cost of promulgating the regulations and some small administrative costs. School districts benefit by receiving the federal matching dollars under the Medicaid program for services that they must provide, regardless of how they are funded. For each school district dollar expended for these covered services, the school district would receive approximately \$1.50 in additional federal dollars, which can help defray the costs of providing special education services.

COST-CUTTING STRATEGIES

Description of Strategy

Many states may be providing services (funded through state "general funds") that are potentially reimbursable through Medicaid; Medicaid maximization aims to identify such services and convert them to Medicaid-covered programs. Doing so will increase revenue by bringing in federal matching funds. This would enable the state to either decrease the amount that it is spending on Medicaid or expand coverage or increase the services it provides without spending more money. For example, a state may provide targeted case management services through community clinics and county schools, funded by general funds allocated to the health department. Since this service can be covered under Medicaid, a state can change its Medicaid plan to allow case managers (or the local clinics) to bill Medicaid for these services for those patients who qualify for Medicaid. In return, the state receives a 50 percent or higher federal match. Now, the state can spend half as much for the same service for eligible people or spend the same amount and increase the amount of the service (number of case managers, for example).

Services that states may already provide that could be billed to Medicaid include supportive services for foster care children, case-management, maternal and child health clinic services, home visitation, family planning clinics, services for developmentally disabled children, school-based health services, mental health services, and substance abuse services.

Pros and Cons

Pros

- The amount of federal revenue brought into the state can be increased (by millions of dollars, in many cases), thus allowing a state to avoid reducing eligibility or services or to fund new or expanded services for its underserved population without spending additional money.
- Medicaid billing—and the standard definition of service that would come with it—may facilitate coordination with more traditional medical providers about a patient's care by, for example, creating records that can be more easily shared.

Cons

- Implementation requires extensive paper work and a commitment of resources by state agencies to identify such programs, create new billing codes, develop working relationships with "new" providers and cover other start-up costs.
- Medicaid maximization may appear to increase the Medicaid budget and scope of services when it has not done so in fact, resulting in a perception of program growth.
- Medicaid maximization may create new constituencies that may demand increased funding in the future. Thus, it may be difficult not only to alter programs once they have been implemented or expanded but also to control spending.

- Maximizing Medicaid “medicalizes” certain services by standardizing service providers or requiring recipients to meet specific medical qualifications.
- For some services or populations, the Medicaid framework may be perceived as detrimental if it places limits on service provision (for example, limits on home-delivered meals when a state-only elderly program is converted to a 1915 (c) waiver).

States’ Experience

Most states already have used Medicaid maximization to fund school health services. For example, school services for disabled students are funded in conjunction with state departments of education, under the federal Individuals Disabilities Education Act (IDEA). Services to other Medicaid-eligible children are funded in conjunction with the federal early and periodic screening, diagnosis and treatment (EPSDT) initiative or as part of an Individual Education Program (IEP), the individualized education plan for special education children.

Many other state-provided services potentially may be eligible for a federal Medicaid match. In 1991, for example, the Missouri Department of Mental Health (DMH) developed a cooperative agreement with the state’s department of social services to bill Medicaid for substance abuse treatment. Under the new agreement, the state Medicaid agency pays 40 percent of the cost of treatment services for those eligible, while the federal match pays the remaining 60 percent. The DMH uses the money previously spent on treatment (the 60 percent now covered by the match) to expand the program, paying for residential care and child care—services not covered by Medicaid. According to the state’s substance abuse treatment coordinator, Missouri would never have been able to afford to provide these extra services if the treatment program had not been converted to Medicaid.

Design and Policy Issues

- + Why use this strategy? Is it to generate funds to maintain current access and reduce state funding, increase access and maintain current funding, or increase access and increase state funding? The answer to this question will help policymakers decide which programs might best be brought into Medicaid and how to explain the benefits of bringing additional programs under Medicaid.
- + Can the state benefit from this strategy? Are there Medicaid eligible programs in the state that are either funded wholly by the state or receive only partial Medicaid reimbursement? What new programs could the state add? State health and human services departments should be able to identify some, if not all, eligible programs.
- + What will it take to change the way in which programs in the state are financed? How is Medicaid policy changed? These changes often will appear as part of Medicaid budgets, so policymakers may want to talk with fiscal analysts in the state Medicaid agency. In some states, executive agencies may play the major role. In others, the legislature may be involved. Since more than one state agency may have to be involved in working out services standards and budgets, the legislature may have to bring together two or more agencies that traditionally have not been linked.

Federal and State Involvement/Constraints

Some of these changes might require an amendment to the state's Medicaid plan or a "waiver" that would need to be approved by the federal government. - CF

**Figure 1.
Medicaid Maximization**

Number of States with Maximization Efforts	
Mental health	44
School-based services	42
Home and community-based services	41
Developmental disabilities	37
High-risk pregnant women	37
Public health	36
Child health services	36
Pregnancy and infants	34
Substance abuse	33
Persons with disabilities	33
Other areas	29
At-risk infants	27

Note: 46 of 50 states responding to CHCS survey.
 Source: Vernon Smith, Eileen Ellis and Mary Hogan, Health Management Associates Inc.: *Effect of Medicaid Maximization and Managed Care on Cooperation, Collaboration, and Communication with State Governments* (Lawrenceville, N.J.: Center for Health Care Strategies Inc., 1999).

Read More About It

The Lewin Group and Fox Health Policy Consultants. *Study and Plan for Maximizing Federal Medicaid Funds for Hawaii*, prepared for the Governor and the Legislature of Hawaii, 1990.

The Lewin Group and Sjoberg Evashenk Consulting LLC. *Idaho's Medicaid Program: The Department of Health and Welfare Has Many Opportunities for Cost Savings*, prepared for the Idaho state Legislature, November 2000.

Smith, Vernon; Eileen Ellis; and Mary Hogan, Health Management Associates Inc. *Effect of Medicaid Maximization and Managed Care on Cooperation, Collaboration, and Communication within State Governments*. Center for Health Care Strategies. Princeton, N.J. July 1999. <http://www.chcs.org/publications/pdf/ips/IPSEffectMedicaidMaximization.pdf>.