

**ALASKA LEGISLATURE**

**2726**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004**

SENATE FINANCE COMMITTEE  
3/23 2003 COMMITTEE ACTION

Bill Number	SB 300		
Amendment	#1		
Motion	adopt		
<u>Motion by</u>	Green		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			
Senator Stevens			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

Add:

Sec. 3. This Act takes effect  
immediately

Called to  
Mareen  
10:40am

Conceptual amendment 3/23

CS FOR SENATE BILL NO. 300(FIN)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
 Referred:

Sponsor(s): SENATOR STEDMAN

A BILL

OR AN ACT ENTITLED

1 "An Act relating to an attorney's lien, to court actions, and to other proceedings where  
 2 attorneys are employed; and providing for an effective date."

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

4 \* Section 1. AS 34.35.430(b) is amended to read:

5 (b) The [THIS] lien described in (a) of this section is superior to all  
 6 subsequent liens except tax liens. The lien is a charge on the action, and the  
 7 parties to the action may not extinguish or affect the attorney's lien by any  
 8 means, including settlement, other than by satisfying the underlying claim of the  
 9 attorney for the fees and costs incurred in connection with the action [,  
 10 HOWEVER, SUBORDINATE TO THE RIGHTS EXISTING BETWEEN THE  
 11 PARTIES TO THE ACTION OR PROCEEDING].

12 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
 13 read:

14 APPLICATION. AS 34.35.430(b), as amended by sec. 1 of this Act, applies to an

1 attorney's lien served and filed in a court action or other proceeding on or after the effective  
2 date of this Act.

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

Amend.  
#1

# SENATOR BERT STEDMAN

Senate District A



*State Capitol, Room 30, Juneau, Alaska 99801-1182 Phone (907) 465-3873 Fax (907) 465-3922*

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## SPONSOR STATEMENT

### SB 300

SB 300 eliminates an unfair and potentially disastrous federal income tax issue affecting Alaskan taxpayers and prevents the IRS from taxing two Alaskans on the same income. SB 300 corrects this unjust treatment of Alaskans under current 9<sup>th</sup> Circuit rulings.

Because of a peculiarity in Alaskan law, Alaskans who win in court may pay federal income tax on phantom income. When Alaskans file their federal tax return, they must report any litigation recovery allocated to attorney fees as gross income, even though they receive no economic benefit from those fees. The federal government taxes that portion of the prevailing side's award twice; once as income to the client and again as income to the client's attorney. Incredibly, there is no federal tax deduction to offset this inequity. It's even possible for someone to win in court but come out with a net loss after paying legal bills and taxes.

Under current Alaska lien law <AS 34.35.430>, attorneys have a "subordinate lien" or ownership interest in the "cause of action". Other states, including Oregon, use different language to specify that as long as an attorney has filed an appropriate lien and is owed money by the winning client, all fee awards or payments made to the client belong exclusively to the attorney. In so vesting the attorney with the property interests of the award, those states avoid the unfair tax burden currently imposed on Alaskans. Instead, any portion of an award retained to pay attorney costs, is not income to the client.

SB 300 changes Alaskan law to prevent the IRS from taxing Alaskans on income they don't receive. This bill recognizes that court awarded fees which pass through to one's attorney is income to the attorney. And as such, the attorney is responsible for paying federal income tax on that portion of their income.



DANIEL E. WINFREE  
AIMEE ANDERSON ORAVEC  
CASSANDRA J. TILLY

WINFREE LAW OFFICE  
A Professional Corporation

OF COUNSEL:  
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SHELLEY D. EBENAL

301 Cushman Street, Suite 200 • Fairbanks, Alaska 99701-4629 • 907.451.6500 Telephone • 907.451.6510 Facsimile

February 6, 2004

FAX: 907 465-3922

Senate Judiciary Committee  
Butrovich 205  
State Capitol  
Juneau, AK  
Attn: Sen. R. Seekins, Chairman

Re: SB 300 – attorney lien amendment

Dear Chairman Seekins and Members,

SB 300 has been favorably reviewed by a broad range of practicing Alaskan attorneys who represent all sides of many different kinds of disputes. Just recently, at the February 4, 2003, regular monthly meeting of the Employment Law Section of the Alaska Bar Association, 22 attorneys from Fairbanks, Anchorage, Juneau, and Kotzebue discussed the draft, after hearing from tax and other experts. While the Section is not permitted to lobby or endorse legislation, I can represent that, of those present, not a single person voiced any objection to the bill;<sup>1</sup> all comments were favorable with regard to passage. A number of participants, in fact, recounted examples of unfair taxation of clients who had received fee awards and who were then obligated to pay over the fees to their attorneys without taking a corresponding deduction from their gross income. Other attorneys commented that the unfair taxation of fee awards drives up the cost of settlement for the opposing party.

This bill, if passed, would eliminate the current double taxation of fee awards, and will make fee awards taxable only to the recipient attorney, and not to the prevailing litigant. The bill makes the Alaska lien statute track the Oregon lien statute, which the federal Court of Appeals has held is effective to eliminate double taxation.<sup>2</sup> The bill appropriately recognizes that earlier-asserted liens of any origin will prevail over a later-filed attorney lien, and that a later-filed tax lien will even prevail over an earlier attorney

<sup>1</sup> Thus, these comments do not reflect the official position of the Alaska Bar Association. The Association has not taken a position, nor has it been asked to take a position.

<sup>2</sup> Banaitis v. CIR, 340 F.3d 1074 (9<sup>th</sup> Cir. 2003).

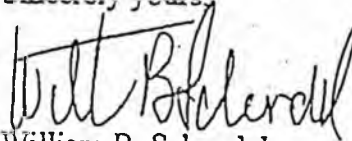
Schendel letter to Sen.Jud. Comm.  
February 6, 2004  
Page two

lien. By eliminating double taxation, this bill, if passed, will result in substantial savings to Alaskan citizens, whether plaintiffs or defendants.

I urge the passage of SB 300.

Thank you.

Sincerely yours,

A handwritten signature in cursive script that reads "Will Schendel". The signature is written in dark ink and is positioned above the printed name.

William B. Schendel  
Of Counsel

# Cook Schuhmann & Groseclose, Inc.

## Attorneys at Law

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714 Fourth Avenue, Suite 200 • Fairbanks, Alaska 99701-4470

February 5, 2004

VIA Facsimile 907-465-3922

Sen. Bert Stedman  
State Capital Room 30  
Juneau, AK 99801

Re: *Senate Bill 300: Attorney Lien Amendment*

Dear Senator Stedman:

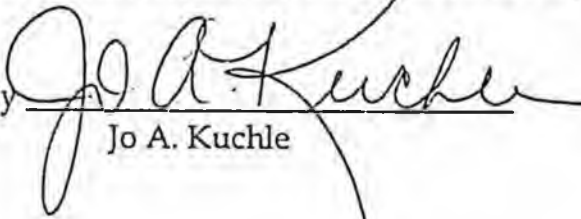
Thank you for introducing this important bill to eliminate the double taxation of fee awards on Alaskan taxpayers. The 9<sup>th</sup> Circuit Court of Appeals has held that on a recovery in a court proceeding, that portion subject to an attorneys fee award is taxable to the plaintiff/taxpayer. Then when the plaintiff pays the attorney, the income is taxed a second time. The 9<sup>th</sup> Circuit has recognized an exception in Oregon, where the attorney lien statute makes the portion owed to the attorney a superior lien. Based on that difference, Oregon taxpayers -- who are also in the 9<sup>th</sup> Circuit -- avoid the double taxation issue. The portion paying the attorney is taxed only to the attorney and not to the plaintiff/taxpayer.

Your legislation will help many Alaskan taxpayers avoid this often disastrous tax result. By amending Alaska's attorney lien statute to match Oregon's, this inequitable tax result should be avoided under the current 9<sup>th</sup> Circuit rulings. Thank you again.

Should there be any hearings before the Senate Judiciary Committee, please let me know the date and time as I would be willing to testify.

Sincerely,

COOK SCHUHMAN & GROSECLOSE, INC.

By   
Jo A. Kuchle

Senator Stedman	
Rec on:	219
Read	Copy
Sender's e-mail address:	
jkuchle@alaska.gov	
MILES	2/5
IAN	
DICK	
Note:	By Fax 2/5

# Walsh Kelliher & Sharp

A Professional  
Corporation



Certified Public  
Accountants

Advisors  
to Business



Post Office Box 73530  
330 Barnette Street  
Suite 101  
Fairbanks, Alaska  
99707-3530

Phone  
907-456-2222  
800-478-0829  
Fax  
907-456-8325



February 6, 2004

Senator Bert Stedman  
Senate Judiciary Committee  
State Capitol  
Room 30  
Juneau, AK 99801

Re: SB 300; Attorney Lien Amendment

Via fax (original in mail): 907-465-3922

Dear Senator Stedman,

I would like to thank you for giving this legislation a hearing. It has the potential to fix what I consider to be grievous miscarriages of justice. Although the proposed legislation is quite simple, the story behind the need for this is a bit more complicated. If you have this information from other sources, please just consider this a message from a citizen speaking in favor of the bill.

If you need to know more about the issue I am happy to be of service. First I would like to give you some background on the Federal income tax consequences of an award to the plaintiff of attorney fees and litigation costs.

Both Alaska and Oregon lie under the jurisdiction of the Ninth Circuit Court of Appeals and the decisions of the Ninth Circuit control the decisions of the United States Tax Court for cases of taxpayers residing in the Alaska and Oregon. I realize you undoubtedly know this but it becomes very relevant to this legislation.

The Ninth Circuit in *Coady vs. Commissioner*, 85 AFTR 2d 2000-2049. (213 F.3d 1187), 06/14/2000 looked at a Federal income tax case, the result of which turned on Alaska law. Nona Coady was an employee of the Alaska Housing Finance Corporation. She lost her job and later prevailed in employment litigation and won an award for back wages and benefits lost as a result of wrongful termination. The issue with respect to their tax return for the year involved whether the Coadys needed to include in income the portion of the award that went to their attorneys. The Ninth Circuit indicated that the plaintiff must include the attorney fees in income.

Senator Stedman	
Rec on:	2/11
Read	Copy
SENATOR	
MILEAGE	
IAN	
DICK	
Note:	By Fax 2/6/04

Businesses that receive damage awards or other lawsuit awards must also include the gross amount in income, but businesses are allowed to deduct all of their legal costs against the award so that they only pay tax on the net proceeds.

If tax law provided that damages in the employment context were taxed only to the extent of net proceeds we would not have a problem and the desperate need for your assistance. Unfortunately, the tax law does not tax the net proceeds of non-business cases, at least in Ninth Circuit cases dealing with Alaska, but rather taxes the entire award to the plaintiff. A limited deduction for attorney fees and litigation costs is allowed for regular tax purposes and no deduction at all is allowed for purposes of the alternative minimum tax. At least one taxpayer has tried to claim, under a reimbursement theory, a direct deduction of legal expenses against the gross award and been rejected by the Ninth Circuit. See *Biehl v. Com*, 92 AFTR 2d 2003-7280, (CA9)12/12/2003.

The alternative minimum tax is a tax computation which parallels the regular tax computation in many respects. All taxpayers are required to compute their tax liability under both systems and pay the government under the computation which produces the highest tax. The courts have repeatedly struck down arguments that the alternative minimum tax is unconstitutional or does not apply on other grounds. See *Banaitis v. Com*, 92 AFTR 2d 2003-5840, 340 F3d1081 (CA9, 8/27/2003)

One important area in which these two systems differ is in the treatment of miscellaneous itemized deductions related to employee business expenses. These deductions, authorized under Internal Revenue Code Section 67, are deductible to as itemized deductions to the extent they exceed 2% of adjusted gross income.

For alternative minimum taxes purposes however, Internal Revenue Code Section 56(b)(1)(A)(i) provides that "No deduction shall be allowed for any miscellaneous itemized deduction."

This means that the payment of attorney fees provides no benefit for purposes of the alternative minimum tax. This can create horrific consequences to a successful plaintiff. We have had situations in our practice where a successful plaintiff, after paying attorney fees and taxes, had paid out more in attorney fees and taxes than they received in gross proceeds.

In addition, we have seen cases where public interest litigants and the disadvantaged have successfully sued to stop illegal behavior. The award often times consists of 90-95% legal fees with a small amount of damages. In these instances the income tax liability greatly exceeds the damages. In some instances the inclusion in income, of money they did not get to keep, ended up causing problems with government programs and scholarships which look at gross income for eligibility. It ends up costing victims in this area more than just the tax bill when they win.

In a good example of this, which is public knowledge, in August 2002, the New York Times reported that a female police officer who was the victim of "reprehensible" sexual

harassment received an award of \$300,000 as well as legal fees of almost \$1 million. According to the story this victim will end up paying all of her \$300,000 award, as well as almost \$100,000 more, to settle income taxes due on the gross award. The defendant surely must have enjoyed reading how the winner in court lost it all plus thousands more to the IRS. See *Spina v. Forest Preserve District of Cook County*, 207 F. Supp. 2<sup>nd</sup> 764 (2002).

For a published case laying this out see *Alexander v. Com* 77 AFTR 2d 96-301 (72 F3d 938) (Ca1 1995) in which the successful (or more appropriately termed, unsuccessful) litigant received an award of approximately \$250,000 out of which \$245,000 was paid in legal costs. The First Circuit upheld the Tax Court and the Internal Revenue Service in finding that this "successful" plaintiff owed over \$57,000 in taxes on his net award of approximately \$5,000 due to the alternative minimum tax disallowing the entire amount of attorney fees as a deduction.

If the plaintiff in a Alaskan case were to succeed, the Internal Revenue Service would have the backing of the Tax Court and the Ninth Circuit Court of Appeals in finding that the plaintiff would be taxable on the entire gross award. A limited deduction for attorney's fees and litigation costs paid would be available for regular tax purposes and no portion of the attorney's fees or litigation costs would be deductible for alternative tax purposes.

Some other circuit courts of appeal have held for the taxpayer in these types of cases but the majority of circuit courts have held for the government.

In spite of a conflict between the Ninth Circuit opinion and those of other circuits (see *Cotnam and Clarks*), the United States Supreme Court denied a petition for certiorari on April 16, 2001. This means that we will not have a "once-and-for-all" decision settling the matter for the entire country.

The Ninth Circuit eliminated any doubt about the steadfastness with which they held their opinion when they subsequently decided the issue several more times in other cases. *Sinyard v. Com.* [88 AFTR 2d 2001-6037, 268 F3d 759 (CA9, 9/25/2001)] and *Benci-Woodward v. Com.*, [86 AFTR 2d, 2000-5404, 219 F3d 942 (CA9, 7/18/2000)]

Now, (Finally!, Thank you for your patience if you are still reading this at this point) we get to the possible solution to the problem.

The Ninth Circuit found that these cases turned on local (state) law. If state law provided that the debt (attorney's fees) was a valid debt of the plaintiff then a payment of this debt by the defendant would result in income to the plaintiff. The court stated their reasoning, perhaps most succinctly, in the *Sinyard* case when they stated that "If A owes B a debt, and C pays the debt on A's behalf, it is elementary that C's payment is income to A as well as to B."

The Ninth Circuit, in reviewing the laws of Alaska (Coady), Arizona (Sinyard) and California (Benci-Woodward) held that the laws of the state(s) made the successful plaintiffs the owners of the entire award. The attorneys with whom the plaintiffs had contingent fee agreements were considered debtors of the plaintiffs.

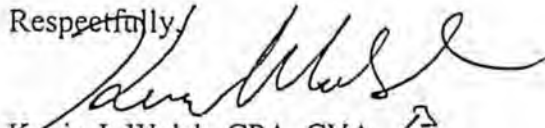
The importance of this distinction was borne out in *Banaitis v. Com.* 92 AFTR 2d 2003-5840, 340 F3d1081 (CA9, 8/27/2003) where the Ninth Circuit held that, under Oregon law, the attorneys in a successful plaintiff case were the lawful owners of their portion of the award. Therefore the payment of the plaintiff attorney by the defendant **did not** result in income to the plaintiff because the plaintiff did not owe the attorney a portion of the award. The plaintiff was considered to have dominion only over the gross award less the attorney fess and costs. The attorney, under Oregon law, had a sufficient bundle of rights to be deemed the owner of the attorney's portion of the award. Thus, the taxpayer in this Oregon case only paid tax on the net proceeds.

We know that much of Alaska law has been modeled on Oregon law. What we are proposing in this legislation is that Alaska law, in the area of attorney liens, be molded to match Oregon. We are not asking for any more than what Oregon law provides, in fact, we want **exactly** what Oregon has as law in this area. Since the Ninth Circuit has said that Oregon taxpayers are treated favorably because of the wording of their attorney lien law we hope that Alaskan taxpayers can also get favorable treatment if our law matches that of Oregon exactly.

Keep in mind that the attorney, in all cases, must also include the fees received in income. We are not proposing anything that would change the taxation of the attorney. We are trying to eliminate the double taxation of the same money.

I realize that the Supreme Court or Congress should settle this matter and that would really be my preference. Both the high court and Congress have been made aware of this issue and declined to deal with it. Therefore, I implore you to do for Alaskan taxpayers what the Federal government refuses do for them. Please allow Alaskan taxpayers to pay income taxes only on what they get to keep and help eliminate the tax penalty for fixing injustices.

Respectfully,



Kevin J. Walsh, CPA, CVA



March 22, 2004

The Honorable Lyda Green, Co-Chair  
Senate Finance Committee  
Alaska Capitol, Room 516  
Juneau, AK 99801-1182

The Honorable Gary Wilken, Co-Chair  
Senate Finance Committee  
Alaska Capitol, Room 518  
Juneau, AK 99801-1182

RE: SB 300 (Stedman) - Support

Dear Co-Chairs Green and Wilken:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the Senate Finance Committee to support SB 300, authored by Senator Bert Stedman. We believe SB 300 is a significant effort to help Alaska citizens who win civil damages in a court case.

Currently an individual who wins a civil suit and is awarded damages must pay taxes on the damages, before his/her attorney fees are paid. In effect, someone who "wins" a lawsuit suffers a tax liability for money that will go to his/her attorney, not to the individual.

Since some AARP members fall into this category, eg., individuals who might win a lawsuit and damages based on age discrimination in employment, AARP believes they should not be responsible for taxes on income that will be going to their legal counsel. The lawyers also have to pay taxes on the income and, as Senator Stedman correctly points out, it creates a system of inequitable double taxation.

AARP urges an "AYE" vote on SB 300.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capital City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,

*Marguerite Stetson*

Marguerite Stetson  
AARP Alaska  
Executive Council Member for Advocacy  
3009 Northwood Street  
Anchorage, AK 99517-1871  
907.245.5259 voice  
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[ffmas@aurora.uaf.edu](mailto:ffmas@aurora.uaf.edu)

CC: Vice-Chair Bunde  
Senator Dyson  
Senator Ben Stevens  
Senator Hoffman  
Senator Olson  
Senator Stedman



2/12/04

*Tax Report*  
*By Tom Herman*

### **How You Can Lose By Winning a Suit**

How much you owe Uncle Sam sometimes can depend on where you live. And sometimes you can get slapped with a hefty tax bill on money you didn't pocket. How so? The answer lies in a string of differing federal appeals-court decisions affecting people who have won awards or received settlements in cases involving charges of racial, sexual or age discrimination, wrongful job termination or other nonphysical personal-injury battles.

This long-simmering subject is back in the news again because of a recent ruling by the U.S. Appeals Court for the Second Circuit. The case involves David Raymond, a Vermont man who sued International Business Machines Corp. alleging wrongful termination. A jury awarded him nearly \$900,000 in the late 1990s. The law firm handling his case received about one-third as a contingency fee.

A federal district-court judge later said Mr. Raymond could exclude the contingency fee when calculating taxable income. But now the second circuit appeals court has overturned that decision. It said Mr. Raymond had to include the entire award in his taxable income -- even the portion that went to his lawyers. James W. Runcie, a Vergennes, Vt., lawyer who handled the case, said he and his client "are likely to ask the Supreme Court to review the case."

Many people in such situations are out of luck because of the vagaries of the alternative minimum tax, which is hitting growing numbers of unsuspecting Americans. Under the AMT, certain miscellaneous itemized deductions such as legal fees aren't deductible. Another problem is known as the "2% haircut": You can only deduct the amount of certain miscellaneous deductions to the extent they exceed 2% of your adjusted gross income.

Numerous other federal appeals courts have issued similar rulings, forcing victims to pay large amounts of taxes on money they didn't actually get. But a few other federal appeals courts have decided that taxpayers can exclude those fees from gross income. Thus, your tax tab can depend on where you live.

It is even possible for someone to win a big court award and come out with a net loss after paying legal bills and taxes, says Nina Olson, the Internal Revenue Service National Taxpayer Advocate.

The Supreme Court hasn't weighed in, but there is a chance taxpayers could get some congressional relief.

Among lawmakers who favor speedy action is Senate Finance Committee Chairman Chuck Grassley, an Iowa Republican. "It remains a high priority for me that we end this terrible policy where individuals are subject basically to double taxation when they receive a settlement payment," Sen. Grassley said in an e-mail. "We passed legislation in the Senate last year to address this, and I hope we can get the bill to the president's desk this year."

The Raymond case and the split among appeals courts drew attention at a recent tax conference in Los Angeles. "This issue really struck me," says Ruth Madrigal, a lawyer at Irell & Manella LLP in Los Angeles. She points to "the complete lunacy of the vast difference in results depending on which state you reside in when the issue goes to court."

This issue has been discussed at length in tax publications such as Tax Notes, an influential weekly from Tax Analysts, based in Arlington, Va. The subject also was analyzed in the IRS National Taxpayer Advocate's report to Congress for fiscal 2002.

"Legislation is needed to resolve the split among the circuit courts of appeal regarding the taxation of attorney fees," the IRS National Taxpayer Advocate's report said. The report outlined several suggestions and recommended this one: Include legal fees in your gross income but allow those fees to be deducted when calculating adjusted gross income, or AGI. That's known as an "above-the-line" deduction since it would appear on your return above the line for AGI.

Such a change "would effect uniform treatment" for all people who receive these awards and settlements, "irrespective of their place of residence," Ms. Olson's report concluded.

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/6/04

FURTHER: Finance

Date of 5-Day Notice: 2/5/04  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 2/20/04

Judiciary Committee considered

SENATE BILL NO. 300

SB 300 ATTORNEY'S LIEN

"An Act relating to an attorney's lien, to court actions, and to other proceedings where attorneys are employed."

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 Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DNR	2/19			✓	1
CRT	2/19			✓	2
LAW	2/9			✓	3

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
Ellis <i>[Signature]</i>			X	
French <i>[Signature]</i>			X	
Theriault <i>[Signature]</i>	X			
Ogan <i>[Signature]</i>	X			
CHAIR: <i>[Signature]</i>	✓			

Ellis  
French  
Theriault  
Ogan  
  
Sealans



**SB**

**301**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: SB 301  
 ( S ) Publish Date: 2/6/04  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO PIONEER AND VETERAN HOMES

RDU Alaskan Pioneer Homes

Component Pioneers Homes

Sponsor RULES COMMITTEE

Requester \_\_\_\_\_

Component No. 2671

**Expenditures/Revenues**

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel		2.0	2.0	2.0	2.0	2.0
Contractual		24.0	52.8	58.1	63.9	70.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>26.0</b>	<b>54.8</b>	<b>60.1</b>	<b>65.9</b>	<b>72.3</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (1002)</b>		<b>73.0</b>	<b>289.7</b>	<b>401.8</b>	<b>514.0</b>	<b>570.0</b>

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts		73.7	289.7	401.8	514.0	570.0
1003 GF Match						
1004 GF		( 47.7)	( 234.9)	( 341.7)	( 448.1)	( 497.7)
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>26.0</b>	<b>54.8</b>	<b>60.1</b>	<b>65.9</b>	<b>72.3</b>

Estimate of any current year (FY2004) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:**

(Attach a separate page if necessary)

This bill will provide authority to serve veterans through identification of one or more homes within the Pioneer Homes system as a Veteran Home consistent with US Veterans Administration requirements. Once certified by the VA, the state can bill the VA \$26.95 per day for services provided to qualified residents of the Veteran Home. VA receipts are anticipated for the Palmer Pioneer Home certification sometime in FY2006. The Governor's FY2005 capital budget includes a request to convert the Palmer Pioneers' Homes from its current use to a State Veteran Home (SVH). The conversion is estimated to cost \$3.5 million in FY2005, of which 35% is state match.  
(Continued on next page)

Prepared by: David W Williams

Phone 465-5737

Division Alaska Longevity Programs

Date/Time 01/12/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 01/12/2004

Agency Department of Health and Social Services

COMMITTEE COPY

THE  
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ORIGINAL  
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FISCAL NOTE  
FN 1

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. SB 301

ANALYSIS CONTINUATION

Operating cost analysis:

Expenditures

Additional FY06 operating costs include \$2.0 in travel for attendance at federal meetings, national VA meetings and similar negotiations (based on one out-of-state trip a year). The contractual line includes \$24.0 for a transportation contract for Veterans' doctor visits for one-half year. The second year is a full year with growth according to the number of veterans. The assumption for growth is one new veteran resident each month. Veterans must go to the VA doctor in Anchorage.

Revenues:

The VA rate for domiciliary care is \$26.95 per day. Federal approval of the funding is dependent upon the state funding its portion of required construction/remodeling costs. With legislative approval of the capital request, it is anticipated that construction could begin in September 2004. The VA anticipates 450 days for construction with an anticipated opening date mid-year FY2006.

Estimate of VA Payments	FY06	FY07	FY08	FY09	FY10
Veterans Per Day Rate	\$26.95	\$26.95	\$26.95	\$26.95	\$26.95
Veteran residents who qualify for VA domiciliary care	16	31	43	55	61
Days of care in month	180	365	365	365	365
Utilization/Vacancy	95%	95%	95%	95%	95%
VA Revenue in Fiscal Year	\$73,735	\$289,692	\$401,831	\$513,970	\$570,040



## Health, Education, and Social Services Committee Alaska State Senate

### Letter of Intent

It is the intent of the legislature in passing Senate Bill 301 relating to an Alaskan Veterans Home that the Department of Health and Social Services will convert the Palmer Pioneers' Home to be a state veterans' home approved by the US Department of Veterans Affairs. After the conversion, the department should continue to maintain a Pioneers' Home waiting list for the Palmer Home. It is the intent of the legislature that the home will provide 75% of the resident capacity for veterans and 25% of the resident capacity for others selected from the Pioneer's Home waiting list.

The legislature encourages the department to actively work to fill all vacant beds using the current Pioneers' Home waiting list prior to certification of the Home as a state veterans' home.

COMMITTEE COPY

Adopted

4.7.04

23-GS2085U

HOUSE CS FOR CS FOR SENATE BILL NO. 301(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Pioneers' Home and the Alaska Veterans' Home; relating  
2 to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home;  
3 relating to the eligibility of residents for the Alaska Pioneers' Home and the Alaska  
4 Veterans' Home for general relief assistance; relating to state veterans' home facilities;  
5 making conforming amendments; and providing for an effective date."

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

7 \* Section 1. AS 08.68.395(g)(2) is amended to read:

8 (2) "health care facility" means a private, municipal, state, or federal  
9 hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney  
10 disease treatment center (excluding freestanding hemodialysis units), intermediate care  
11 facility, or Alaska Pioneers' Home or Alaska Veterans' Home administered by the  
12 Department of Health and Social Services [ADMINISTRATION] under AS 47.55.

13 \* Sec. 2. AS 15.05.020 is amended to read:

1           **Sec. 15.05.020. Rules for determining residence of voter.** For the purpose  
 2 of determining residence for voting, the place of residence is governed by the  
 3 following rules:

4           (1) A person may not be considered to have gained a residence solely  
 5 by reason of presence nor may a person lose it solely by reason of absence while in the  
 6 civil or military service of this state or of the United States or of absence because of  
 7 marriage to a person engaged in the civil or military service of this state or the United  
 8 States, while a student at an institution of learning, while in an institution or asylum at  
 9 public expense, while confined in public prison, while engaged in the navigation of  
 10 waters of this state [,] or the United States or of the high seas, while residing upon an  
 11 Indian or military reservation, or while residing in the Alaska Pioneers' Home or the  
 12 Alaska Veterans' Home.

13           (2) The residence of a person is that place in which the person's  
 14 habitation is fixed, and to which, whenever absent, the person has the intention to  
 15 return. If a person resides in one place, but does business in another, the former is the  
 16 person's place of residence. Temporary construction camps do not constitute a  
 17 dwelling place.

18           (3) A change of residence is made only by the act of removal joined  
 19 with the intent to remain in another place. There can only be one residence.

20           (4) A person does not lose residence if the person leaves home and  
 21 goes to another country, state, or place in this state for temporary purposes only and  
 22 with the intent of returning.

23           (5) A person does not gain residence in any place to which the person  
 24 comes without the present intention to establish a permanent dwelling at that place.

25           (6) A person loses residence in this state if the person votes in another  
 26 state's election, either in person or by absentee ballot, and will not be eligible to vote  
 27 in this state until again qualifying under AS 15.05.010.

28           (7) [REPEALED

29           (8)] The term of residence is computed by including the day on which  
 30 the person's residence begins and excluding the day of election.

31           (8) [(9) REPEALED

1 (10)] The address of a voter as it appears on an official voter  
 2 registration card is presumptive evidence of the person's voting residence. This  
 3 presumption is negated only by the voter's [VOTER] notifying the director in writing  
 4 of a change of voting residence.

5 \* Sec. 3. AS 17.37.070(6) is amended to read:

6 (6) "facility monitored by the department or the Department of  
 7 Administration" means an institution, building, office, or home operated by the  
 8 department or the Department of Administration, funded by the department or the  
 9 Department of Administration, under contract with the department or the Department  
 10 of Administration, inspected by the department or the Department of Administration,  
 11 designated by the department or the Department of Administration, or licensed by the  
 12 department or the Department of Administration, for the care of

13 (A) juveniles; for the purposes of this subparagraph,  
 14 "institution" includes a foster home ~~and~~ a group home, and a juvenile detention  
 15 facility, a juvenile detention home a juvenile work camp, and a treatment  
 16 facility, as those terms are defined in AS 14.990;

17 (B) the elderly; for the purposes of this subparagraph,  
 18 "institution" includes

19 (i) an assisted living home as defined in AS 47.33.990;

20 and

21 (ii) the Alaska [A] Pioneers' Home or the Alaska  
 22 Veterans' Home, operated under AS 47.55;

23 (C) the mentally ill; for the purposes of this subparagraph,  
 24 "institution" includes a designated treatment facility and an evaluation facility,  
 25 as those terms are defined in AS 47.30.915;

26 \* Sec. 4. AS 18.07.111(8) is amended to read:

27 (8) "health care facility" means a private, municipal, state, or federal  
 28 hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney  
 29 disease treatment center (including freestanding hemodialysis units), intermediate care  
 30 facility, and ambulatory surgical facility; the term excludes

31 (A) the [AN] Alaska Pioneers' Home and the Alaska

1 Veterans' Home administered by the Department of Health and Social  
 2 Services [ADMINISTRATION] under [AS 44.21.02(9) AND] AS 47.55; and

3 (B) the offices of private physicians or dentists whether in  
 4 individual or group practice;

5 \* **Sec. 5.** AS 18.35.300 is amended to read:

6 **Sec. 18.35.300. Places where smoking is regulated.** Smoking in any form is  
 7 a nuisance and a public health hazard and is prohibited in the following vehicles and  
 8 indoor places, except as allowed under AS 18.35.310:

9 (1) a vehicle of public transportation and a waiting, baggage, or  
 10 boarding area for a vehicle of public transportation, including a bus, ferry vessel, train,  
 11 limousine for hire, taxicab, or scheduled interstate or intrastate aircraft flight when  
 12 consistent with federal law;

13 (2) a place of employment, a building or other structure, or a portion of  
 14 them, owned, leased, or operated by the state or a political subdivision of the state,  
 15 including an office, library, museum, theater, concert hall, convention hall,  
 16 gymnasium, swimming pool, or other place of entertainment or recreation;

17 (3) a public or private postsecondary educational institution or adult  
 18 day care facility;

19 (4) a courtroom or jury deliberation room;

20 (5) a room, chamber, or other place under the control of the state  
 21 senate or state house of representatives while a public meeting or public assembly is  
 22 not in progress;

23 (6) a nursing home, rest home, or other residential health care  
 24 institution or facility, or a public or private office or facility that is engaged primarily  
 25 in providing mental health services;

26 (7) a food service establishment that has a seating capacity of at least  
 27 50 persons;

28 (8) a grocery store or other store maintained primarily for the retail  
 29 sale of food products;

30 (9) a place of employment in which the owner, manager, proprietor, or  
 31 other person who has control of the premises posts a sign stating that smoking is

1 prohibited by law;

2 (10) a correctional facility; and

3 (11) the Alaska [A] Pioneers' Home or the Alaska Veterans' Home.

4 \* Sec. 6. AS 36.30.990(1) is amended to read:

5 (1) "agency"

6 (A) means a department, institution, board, commission,  
7 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska  
8 Veterans' Home, or other administrative unit of the executive branch of state  
9 government;

10 (B) does not include

11 (i) the University of Alaska;

12 (ii) the Alaska Railroad Corporation;

13 (iii) the Alaska Housing Finance Corporation;

14 (iv) a regional Native housing authority created under  
15 AS 18.55.996 or a regional electrical authority created under  
16 AS 18.57.020;

17 (v) the Department of Transportation and Public  
18 Facilities, in regard to the repair, maintenance, and reconstruction of  
19 vessels, docking facilities, and passenger and vehicle transfer facilities  
20 of the Alaska marine highway system;

21 (vi) the Alaska Aerospace Development Corporation;

22 (vii) the Alaska State Pension Investment Board;

23 (viii) the Alaska Seafood Marketing Institute;

24 \* Sec. 7. AS 37.05.146(c)(31) is amended to read:

25 (31) Alaska Pioneers' Home and Alaska Veterans' Home care and  
26 support receipts under AS 47.55.030;

27 \* Sec. 8. AS 37.05.990(2) is amended to read:

28 (2) "state agency," "agency," "department," or similar term means a  
29 department, office, institution, board, commission, bureau, division, or other  
30 administrative unit forming the state government, and includes the Alaska Pioneers'  
31 Home, the Alaska Veterans' Home, and the University of Alaska.

1 \* **Sec. 9.** AS 37.07.120(1) is amended to read:

2 (1) "agency" means a department, officer, institution, board,  
3 commission, bureau, division, or other administrative unit forming the state  
4 government and includes the Alaska Pioneers' Home, the Alaska Veterans' Home,  
5 and the University of Alaska, but does not include the legislature or the judiciary;

6 \* **Sec. 10.** AS 39.25.120(c)(8) is amended to read:

7 (8) Alaska Pioneers' Home and Alaska Veterans' Home managers;

8 \* **Sec. 11.** AS 44.29.020(a)(16) is amended to read:

9 (16) the Alaska Pioneers' Home and the Alaska Veterans' Home  
10 [HOMES];

11 \* **Sec. 12.** AS 47.25.140 is amended to read

12 **Sec. 47.25.140. Residents of public institutions.** Payment under  
13 AS 47.25.120 - 47.25.300 may not be made to or on [IN] behalf of an individual who  
14 is a resident of a [THE ALASKA PIONEERS' HOME OR OTHER] public institution,  
15 except as a patient in a public medical institution, or an individual who is a patient in a  
16 public or private institution for tuberculosis or mental disease. A resident of a [THE  
17 ALASKA PIONEERS' HOME OR OTHER] public institution who is otherwise  
18 eligible to receive an allowance under AS 47.25.120 - 47.25.300 may apply for the  
19 allowance instead of the support and maintenance provided in the [HOME OR] public  
20 institution.

21 \* **Sec. 13.** AS 47.25.140 is amended by adding a new subsection to read:

22 (b) In this section, "public institution" does not include the Alaska Pioneers'  
23 Home or the Alaska Veterans' Home.

24 \* **Sec. 14.** AS 47.45.240(c) is amended to read:

25 (c) The commission may not investigate, review, or undertake any  
26 responsibility for the longevity bonus program under AS 47.45.010 - 47.45.160 or the  
27 Alaska Pioneers' Home or Alaska Veterans' Home [HOMES] under AS 47.55.

28 \* **Sec. 15.** AS 47.55.010 is repealed and reenacted to read:

29 **Sec. 47.55.010. Maintenance and operation of Alaska Pioneers' Home and**  
30 **Alaska Veterans' Home.** (a) Except as otherwise provided in this subsection, the  
31 state shall maintain and operate facilities known as the Alaska Pioneers' Home at

1 Sitka, Anchorage, Fairbanks, Juneau, Ketchikan, Palmer, and other sites designated by  
2 the commissioner of health and social services. The state may maintain and operate  
3 one or more facilities known as the Alaska Veterans' Home at sites designated by the  
4 commissioner of health and social services. The only Pioneers' Home that may be  
5 maintained and operated as a Veterans' Home is the Pioneer's Home located in Palmer,  
6 Alaska. The Alaska Pioneers' Home and the Alaska Veterans' Home shall be  
7 collectively administered by the Department of Health and Social Services as the  
8 Alaska Pioneers' Home and Alaska Veterans' Home.

9 (b) The department shall formulate general policies for the homes designated  
10 under (a) of this section. It may hold hearings and subpoena witnesses and documents  
11 and may administer oaths in connection with the homes.

12 (c) The department shall

13 (1) cooperate with the federal government in matters pertaining to the  
14 welfare of Alaska pioneers and of veterans who reside in the homes operated under  
15 this chapter, make the reports in the form and containing the information the federal  
16 government from time to time desires, and accept money allotted by the federal  
17 government, its agencies, or its instrumentalities in establishing, extending, and  
18 strengthening services for pioneers and veterans who reside in a home operated under  
19 this chapter;

20 (2) adopt regulations necessary to conduct business and to carry out  
21 the provisions of this chapter, require bonds and undertakings from persons employed  
22 by a home as in its judgment are necessary, and pay the premiums on them, and  
23 establish regional and local offices and the advisory groups that are necessary or  
24 considered expedient to carry out or assist in carrying out a duty or authority assigned  
25 to it;

26 (3) perform all executive or administrative duties necessary and  
27 advisable to carry out the purpose of this chapter, including the power to make  
28 contracts and to make disbursements on vouchers against appropriations for the  
29 purpose of this chapter, within the limit of appropriations available;

30 (4) study the needs of pioneers and veterans of this state who reside in  
31 the homes operated under this chapter and submit recommendations for new

1 regulations and proposed legislation.

2 (d) The department may employ the necessary subordinate officers and  
3 employees, and shall prescribe methods for operation of the homes, standards of care  
4 and service to home residents, and rules governing personnel. The methods for  
5 operation and standards of care and services to residents prescribed under this  
6 subsection shall be the same as the methods for operation and standards of care  
7 established by the department for an assisted living home licensed under AS 47.33.

8 (e) The department may engage in activities directed to increase revenue from  
9 a home. These activities may include the lease of excess bed or floor space, up to 50  
10 percent of the total floor space in a home, or lease of space or buildings that are not in  
11 use or are underutilized.

12 \* Sec. 16. AS 47.55.020 is repealed and reenacted to read:

13 **Sec. 47.55.020. Admission to a home.** (a) Every person residing in the state  
14 who is 65 years of age or older, has been a resident of the state continuously for more  
15 than one year immediately preceding application for admission, and is in need of  
16 residence at a home because of physical disability or other reason, is eligible for  
17 admission to the Alaska Pioneers' Home or the Alaska Veterans' Home under  
18 conditions prescribed in regulations. The spouse of a person who is eligible for  
19 admission under other provisions of this subsection is also eligible for admission to a  
20 home under conditions prescribed by the department if the spouse is 65 years of age or  
21 older and has been a resident of the state continuously for more than one year  
22 immediately preceding application for admission.

23 (b) Every person admitted to a home who receives income from any source in  
24 excess of \$100 a month shall be required by the department to pay the excess to the  
25 department immediately upon receipt of the money in payment, or part payment, of  
26 the cost of the person's care. However, the department may not require in any month  
27 the payment of an amount greater than the monthly rate set under AS 47.55.030(b)  
28 except to satisfy indebtedness incurred under AS 47.55.070. The department may not  
29 evict a person from a home if the income and assets of the person are insufficient to  
30 pay the monthly rate set under AS 47.55.030(b) and the person is otherwise in  
31 compliance with requirements under this chapter.

1 (c) At the end of each month, the payments made under (b) of this section  
 2 shall be transmitted to the commissioner of revenue. The department may pay the sum  
 3 of \$100 a month to a resident without money.

4 (d) Notwithstanding AS 47.55.070 and (b) of this section, a resident of a home  
 5 whose income, assets, and other resources are insufficient to pay the monthly rate set  
 6 under AS 47.55.030(b), and who does not have private insurance to cover the cost of  
 7 care, qualifies for payment assistance if the resident is otherwise in compliance with  
 8 requirements under this chapter. The amount of payment assistance equals the amount  
 9 needed, when added to other income and assets of the resident, to pay the monthly rate  
 10 set under AS 47.55.030(b). Payment assistance received by a home resident is a debt  
 11 to the state. In determining the amount of payment assistance for which a home  
 12 resident qualifies, the following income, assets, and other resources of the resident  
 13 shall be disregarded:

14 (1) income from any source in an amount up to \$100 a month as  
 15 established by the department by regulation;

16 (2) the following assets received under 43 U.S.C. 1601 - 1629g  
 17 (Alaska Native Claims Settlement Act):

18 (A) cash dividends and other income equal to at least \$2,000 as  
 19 established by the department by regulation;

20 (B) stock;

21 (C) noncash dividends from stock; and

22 (D) land;

23 (3) a permanent fund dividend issued under AS 43.23;

24 (4) compensation to volunteers under the federal retired and senior  
 25 volunteers (42 U.S.C. 5001), foster grandparents (42 U.S.C. 5011), and senior  
 26 companion (42 U.S.C. 5013) programs made in accordance with 42 U.S.C. 5044(f);

27 (5) federal World War II restitution payments made under 50 U.S.C.  
 28 App. 1989b-4 and c-5;

29 (6) payments under AS 18.67 (Violent Crimes Compensation Board);

30 (7) an amount, determined by the department by regulation, that is  
 31 sufficient for burial expenses of the resident, the resident's spouse, and dependents of

1 the resident;

2 (8) real property being used as the primary residence of the resident's  
3 spouse or a dependent of the resident;

4 (9) other real or personal property equal to at least a total value of  
5 \$5,000 as established by the department by regulation.

6 (e) As a condition for receipt of payment assistance under (d) of this section,  
7 the department, under regulations adopted by the department, may require a person to  
8 apply for other state or federally sponsored programs that may reduce the amount of  
9 the payment assistance.

10 \* Sec. 17. AS 47.55.030(a) is amended to read:

11 (a) A person eligible for admission under AS 47.55.020 may, on application,  
12 be admitted to the Alaska Pioneers' Home or the Alaska Veterans' Home [HOME]  
13 upon the person's agreement to pay to the state each month an amount the department  
14 [DEPARTMENT OF HEALTH AND SOCIAL SERVICES] considers sufficient to  
15 compensate the state for the cost of care and support of the person at the home. When  
16 this agreement is entered into, the department [DEPARTMENT OF HEALTH AND  
17 SOCIAL SERVICES] may require security for the payments.

18 \* Sec. 18. AS 47.55.030(c) is amended to read:

19 (c) The department [DEPARTMENT OF HEALTH AND SOCIAL  
20 SERVICES] shall provide to all residents of the homes [PIONEERS' HOME] written  
21 notice of any proposed change in the rate charged for care and support of persons at  
22 the homes [HOME]. Notice under this section shall be given not less than 60 days  
23 before a change is adopted. The notice must include the time, date, and place of a  
24 hearing to be held by the department [DEPARTMENT OF HEALTH AND SOCIAL  
25 SERVICES] under (d) of this section. The department may not change the rate  
26 charged more than once in a fiscal year.

27 \* Sec. 19. AS 47.55.040 is amended to read:

28 **Sec. 47.55.040. Transfer of mentally ill residents to an [ANOTHER]  
29 institution. A person regularly admitted into the Alaska Pioneers' Home or the  
30 Alaska Veterans' Home [HOME] who is found to be insane may be transferred to an  
31 institution provided for the care and custody of insane persons for the state in the**

1 manner provided by law for the admission of other persons to the institution.

2 \* Sec. 20. AS 47.55.050 is amended to read:

3       **Sec. 47.55.050. Maintenance funds.** The legislature shall, each session,  
4 appropriate the necessary funds for the maintenance of the Alaska Pioneers' Home  
5 and the Alaska Veterans' Home [HOME] to be expended by the department  
6 [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], and the [THAT]  
7 department may receive funds, donations, and bequests from private individuals,  
8 societies, or organizations, and funds from the federal government for the support and  
9 maintenance of the homes [HOME].

10 \* Sec. 21. AS 47.55.060 is amended to read:

11       **Sec. 47.55.060. Trust fund.** Unless otherwise provided by the donor, money  
12 bequeathed to the Alaska Pioneers' Home or the Alaska Veterans' Home constitutes  
13 a special trust fund. Unless otherwise provided by the donor, interest from the special  
14 trust fund is under the control and at the disposal of the department [DEPARTMENT  
15 OF HEALTH AND SOCIAL SERVICES], and expenditure from it is limited to the  
16 benefit and comfort of the residents of the homes [HOME].

17 \* Sec. 22. AS 47.55.070 is repealed and reenacted to read:

18       **Sec. 47.55.070. Indebtedness of Alaska Pioneers' Home or Alaska**  
19 **Veterans' Home resident to state.** The following expenses incurred for an Alaska  
20 Pioneers' Home or Alaska Veterans' Home resident under this chapter and not  
21 recoverable from a collateral source are a debt of the resident to the state and may be  
22 recovered during the life of the resident:

23               (1) costs of standard or nursing care provided in the home each month  
24 to the resident not exceeding the rate established by the department under  
25 AS 47.55.030, with credit given for any amounts paid by or collected from the  
26 resident;

27               (2) allowances paid under AS 47.55.020(c);

28               (3) arrearages in fees for television and telephone services provided in  
29 the home; and

30               (4) prescription medicine.

31 \* Sec. 23. AS 47.55.095 is amended to read:

1           **Sec. 47.55.095. Limitation on enforcement of claims against estate.**  
 2 Notwithstanding AS 47.55.080 and 47.55.090, upon the death of an Alaska [A]  
 3 Pioneers' Home or Alaska Veterans' Home resident or of a recipient of day care or  
 4 respite services, a state claim for unpaid debt owed to the home [PIONEERS' HOME]  
 5 may be satisfied only out of the decedent's estate. The state may not pursue a claim to  
 6 the extent doing so would work undue hardship, as determined by the department by  
 7 regulation [OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES], on  
 8 the surviving spouse or dependent of the decedent. Family portraits and heirlooms of  
 9 the type identified under AS 09.38.020(a)(3), without regard to value, may not be  
 10 taken by the state in satisfaction of a debt to the home [PIONEERS' HOME].

11 \* Sec. 24. AS 47.55 is amended by adding a new section to read:

12           **Sec. 47.55.900. Definitions.** In this chapter, unless the context otherwise  
 13 requires,

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

15                   (2) "home" means

16                               (A) the Alaska Pioneers' Home; or

17                               (B) the Alaska Veterans' Home;

18                   (3) "physical disability or other reason" means inability of an  
 19 individual to maintain a household without regular assistance in shopping,  
 20 housekeeping, meal preparation, dressing, or personal hygiene because of physical or  
 21 medical impairment, infirmity, or disability;

22                   (4) "resident of the state" has the meaning given "resident" in  
 23 AS 47.25.430(a);

24                   (5) "veteran" means a person who has been discharged from the armed  
 25 forces of the United States, including the Alaska National Guard or the Alaska  
 26 Territorial Guard; the discharge from the armed forces must be other than  
 27 dishonorable.

28 \* Sec. 25. (a) AS 44.29.020(a)(17) and 44.29.400 are repealed.

29           (b) Sections 5 and 8 - 15, ch. 4, SSSLA 2002, as those sections are amended by a  
 30 version of HB 447, if HB 447 is passed by the Second Session of the Twenty-Third Alaska  
 31 State Legislature and enacted into law, are repealed.

1 (c) Sections 50 and 51 of HB 447 or the equivalent bill sections of a later version of  
2 HB 447, if passed by the Second Session of the Twenty-Third Alaska State Legislature and  
3 enacted into law, are repealed.

4 \* Sec. 26. The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 TRANSITION: STATUS OF CERTAIN RESIDENTS OF THE ALASKA  
7 PIONEERS' HOME OR THE ALASKA VETERANS' HOME. (a) If a resident of an Alaska  
8 Pioneers' Home facility or Alaska Veterans' Home facility was admitted to the facility before  
9 the Department of Health and Social Services received the United States Veterans  
10 Administration certification for the Alaska Veterans' Home to begin receiving per diem  
11 payments for eligible veterans, the resident may not be evicted or required to relocate to a  
12 different Alaska Pioneers' Home or Alaska Veterans' Home facility solely because of that  
13 certification.

14 (b) The commissioner of the health and social services shall promptly post on the  
15 Alaska Online Public Notice System (AS 44.62.175) the date that the certification described  
16 in (a) of this section was received.

17 \* Sec. 27. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 TRANSITION: REGULATIONS. The Department of Health and Social Services  
20 and other state agencies affected by this Act may immediately proceed to adopt regulations  
21 necessary to implement the changes made by this Act. The regulations take effect under  
22 AS 44.62 (Administrative Procedure Act), but not before the effective date of the respective  
23 statutory changes.

24 \* Sec. 28. The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the  
27 heading of AS 47.55 from "Pioneers' Home" to "Alaska Pioneers' Home and Alaska Veterans'  
28 Home."

29 \* Sec. 29. Section 27 of this Act takes effect immediately under AS 01.10.070(c).

30 \* Sec. 30. Except as provided in sec. 29 of this Act, this Act takes effect July 1, 2004.

SB301



FRANK H. MURKOWSKI  
GOVERNOR  
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February 4, 2004

The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 107  
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Pioneers' Home (APH) and Alaska Veterans' Home (AVH).

The purpose of the bill is two-fold: to authorize the establishment of an AVH under the umbrella of our existing APH system and to provide long-term financial stability for both our AVH and APH programs.

For over a decade, the State of Alaska has struggled to develop a viable plan for an AVH. The time has come to move beyond planning to make an AVH a reality. With passage of this bill, the state would have clear statutory authority to serve veterans within the APH system by identifying one or more homes as an AVH consistent with the requirements of the United States Veterans' Administration.

In addition, the bill would require that, as a condition for receipt of assistance to pay the cost of care in a home, a home resident could be required to apply for other state or federally sponsored programs whose benefits could reduce the amount of that assistance.

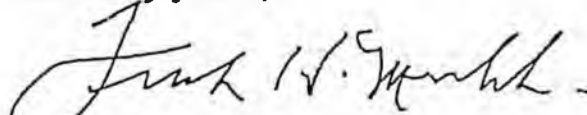
Taken together, these changes are designed to ensure the sustainability of the APH and AVH system over the long-term. Additional federal and other third-party payments are critical in order to maintain the high quality of care the homes provide and home residents expect and deserve. Over time, the Department of Health and Social Services is optimistic that several millions of dollars of additional resources can be obtained in third-party reimbursements annually to support operation of the homes.

The Honorable Gene Therriault  
February 4, 2004  
Page 2

In the absence of additional third-party receipts, the APH and the AVH would remain unduly dependent on state general fund support and resident fees. Given the state's ongoing fiscal constraints and the impracticality of requiring home residents to pay for the full cost of care, failure to adopt the measures included in this bill may well jeopardize the APH and AVH over the long term.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski  
Governor

Enclosure

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: SB 301  
 ( S ) Publish Date: 2/6/04  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO PIONEER AND VETERAN HOMES

RDU Alaskan Pioneer Homes

Component Pioneers Homes

Sponsor RULES COMMITTEE

Requester \_\_\_\_\_

Component No. 2671

**Expenditures/Revenues**

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel		2.0	2.0	2.0	2.0	2.0
Contractual		24.0	52.8	58.1	63.9	70.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>26.0</b>	<b>54.8</b>	<b>60.1</b>	<b>65.9</b>	<b>72.3</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (1002)</b>		<b>73.0</b>	<b>289.7</b>	<b>401.8</b>	<b>514.0</b>	<b>570.0</b>

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts		73.7	289.7	401.8	514.0	570.0
1003 GF Match						
1004 GF		( 47.7)	( 234.9)	( 341.7)	( 448.1)	( 497.7)
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>26.0</b>	<b>54.8</b>	<b>60.1</b>	<b>65.9</b>	<b>72.3</b>

Estimate of any current year (FY2004) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:**

(Attach a separate page if necessary)

This bill will provide authority to serve veterans through identification of one or more homes within the Pioneer Homes system as a Veteran Home consistent with US Veterans Administration requirements. Once certified by the VA, the state can bill the VA \$26.95 per day for services provided to qualified residents of the Veteran Home. VA receipts are anticipated for the Palmer Pioneer Home certification sometime in FY2006. The Governor's FY2005 capital budget includes a request to convert the Palmer Pioneers' Homes from its current use to a State Veteran Home (SVH). The conversion is estimated to cost \$3.5 million in FY2005, of which 35% is state match.  
(Continued on next page)

Prepared by: David W. Williams

Phone 465-5737

Division Alaska Longevity Programs

Date/Time 01/12/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 01/12/2004

Agency Department of Health and Social Services

FISCAL NOTE  
FN 1

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. SB 301

ANALYSIS CONTINUATION

Operating cost analysis:

Expenditures

Additional FY06 operating costs include \$2.0 in travel for attendance at federal meetings, national VA meetings and similar negotiations (based on one out-of-state trip a year). The contractual line includes \$24.0 for a transportation contract for Veterans' doctor visits for one-half year. The second year is a full year with growth according to the number of veterans. The assumption for growth is one new veteran resident each month. Veterans must go to the VA doctor in Anchorage.

Revenues:

The VA rate for domiciliary care is \$26.95 per day. Federal approval of the funding is dependent upon the state funding its portion of required construction/remodeling costs. With legislative approval of the capital request, it is anticipated that construction could begin in September 2004. The VA anticipates 450 days for construction with an anticipated opening date mid-year FY2006.

Estimate of VA Payments	FY06	FY07	FY08	FY09	FY10
Veterans Per Day Rate	\$26.95	\$26.95	\$26.95	\$26.95	\$26.95
Veteran residents who qualify for VA domiciliary care	16	31	43	55	61
Days of care in month	180	365	365	365	365
Utilization/Vacancy	95%	95%	95%	95%	95%
VA Revenue in Fiscal Year	\$73,735	\$289,692	\$401,831	\$513,970	\$570,040

# STATE OF ALASKA

DEPARTMENT OF HEALTH & SOCIAL SERVICES  
DIVISION OF ALASKA PIONEER HOMES

*Frank H. Murkowski,*  
Governor

PO Box 110690  
Juneau, AK 99811-0690  
Phone (907)465-4400  
FAX (907)465-4108  
(907)465-8886

Senate Bill 301 (FIN)  
Sectional Analysis  
April 3, 2004

Section 1: Amends AS 08.68.395(g)(2), dealing with nursing practices, to add a reference to the Alaska Veterans' Home within the definition of "health care facility". The section also updates the reference to the current administration of the Homes by the Department of Health and Social Services.

Section 2: Amends AS 15.05.020, dealing with rules for determining residence of a voter, to change the reference to the Alaska Pioneers' Home to include the Alaska Veterans' Home. The section also reorders the numbering by deleting numbering for current sections (7) and (9) for which the language was repealed in 1972.

Section 3: Amends AS 17.37.070(6), dealing with facilities monitored by the state with regard to medical use of marijuana to change the reference to Alaska Pioneers' Home by adding "Alaska Veterans' Home."

Section 4: Amends the AS 18.07.111(8) definition of "health care facility" under the Certificate of Need program, to add the Alaska Veterans' Home to the list of facilities excluded from the requirement for a Certificate of Need. The section also updates the reference to the administration of the Homes by the Department of Health and Social Services.

Section 5: Amends AS 18.35.300 to include the Alaska Veterans' Home as a place where smoking is prohibited.

Section 6: Amends the AS 36.30.990(1) (A) definition of "agency" within the State Procurement Code to include the Alaska Veterans' Home.

Section 7: Amends AS 37.05.146(c)(31) dealing with the handling of public receipts to add "and Alaska Veterans' Home" to the term "Alaska Pioneers' Home."

Section 8: Amends AS 37.05.990(2) definition of "state agency," "agency," "department," or similar terms dealing with state fiscal procedures to include the Alaska Veteran's Home.

Section 9: Amends the Executive Budget Act definition of "agency" in AS 37.07.120(1) to include the Alaska Veterans' Home.

Section 10: Amends the State Personnel Act in AS 39.25.120(c)(8) to clarify that Alaska State Veterans Home managers in the state service are partially exempt positions.

Section 11: Amends AS 44.29.020(a)(16) to include the Alaska Veterans Home within the duties of the Department of Health and Social Services.

Section 12: Amends AS 47.25.140 to remove the statutory prohibition for payment of public assistance to a resident of the Alaska Pioneers' Home.

Section 13: Adds a new section, as AS 47.25.140(b), to clarify that the Alaska Pioneers' Home or the Alaska Veterans' Home is not a "public institution" under the State's public assistance law. The effect is to identify the Alaska Pioneers' Home and Alaska Veterans' Home as a facility in which residents may receive a Medicaid benefit under federal Medicaid regulations. Under the federal Medicaid regulations (42 CFR 435.1009 "public institution") a person living in a "public institution" of more than 16 beds is prohibited from receiving Medicaid benefits, unless that person is living in a medical institution. This clarification will allow payment for Medicaid services, but Medicaid will not cover the cost for room and board provided by the Pioneers' or Veterans' Homes.

Section 14: Amends AS 47.45.240(c) dealing with the powers, duties, and limitations of the Older Alaskans Commission so as to not permit the Commission to investigate, review, or undertake any responsibility for the Alaska Veterans' Home.

Section 15: Repeals and reenacts AS 47.55 to provide for general operational policies and adoption of regulations necessary for the Department of Health and Social Services to maintain the Alaska Pioneers' Home and Alaska Veterans' Home. Subsection (a) provides that the state "shall" maintain Pioneer Home in Sitka and other places and that the state "may" maintain one or more Veterans' Homes. However, the section designates the Palmer Pioneer Home as the only Pioneer Home that may be maintained as a Veterans' Home without a subsequent change in the statute. The reenacted section provides for department receipt of money from various sources, including the federal government, for general conduct of business and for the department to perform all executive or administrative duties necessary and advisable to conduct business and carry out the purposes of the chapter. The section also authorizes the department to engage in activities directed to increase revenue from a home, including lease of excess bed or floor space, or lease of space or buildings that are not in use or are underutilized. The leased space is limited to 50% of the total floor space in a facility.

Section 16: Repeals and reenacts AS 47.55.020 to establish the requirements for persons who wish to enter a home. The section continues the current Alaska Pioneers' Home eligibility requirement for a person to be 65 years of age or older and to have been a resident of the state continuously for more than one year prior to application for admission. The section extends those same requirements to a person who wants to enter an Alaska Veterans' Home. The section also sets out requirements for payment and provision for payment assistance from the state for those who are not able to pay the charges in full. The reenacted section continues the present prohibition of eviction of a person due to their inability to pay the monthly rate if the person is otherwise in compliance with other requirements of the chapter. Payment assistance provided to a resident under the section continues to be a debt to the state as in current law. Qualifications for payment assistance are set out in the section, including provisions for exclusion of specified real and personal property, income, and assets in determining eligibility for payment assistance. Under the bill, veterans benefits paid under Title 38, Section 1110 of federal law are made available to pay for the cost of care.

Authorization is added for the department to require a person to apply for other state or federally sponsored programs as a condition for receipt of payment assistance.

Section 17: Amends AS 47.55.030(a) to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home with regard to admission and payment.

Section 18: AS 47.55.030(c) is amended to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home with regard to current notice requirements for a change in the rates charged.

Section 19: AS 47.55.040, regarding transfer of an insane person from a home, is amended to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home.

Section 20: AS 47.55.050 regarding appropriation of funds by the legislature for maintenance and receipt of funds from various sources for support of a home is amended to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home.

Section 21: AS 47.55.060 is amended to clarify that trust fund provisions for a home apply to both the Alaska Pioneers' Home and the Alaska Veterans' Home.

Section 22: AS 47.55.070 dealing with indebtedness to the state is repealed and reenacted to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home and to remove numbering for several subsections that were repealed in 1990.

Section 23: AS 47.55.095 is amended to add "Alaska Veterans' Home" to the section that limits enforcement of claims against an estate.

Section 24: Amends AS 47.55 to add a definition section.

The section defines "department" to be the Department of Health and Social Services, in line with the recent transfer of organizational relationship of the Pioneer Homes system to that department.

The term "home" is defined to include both the Alaska Pioneers' Home and Alaska Veterans' Home.

The definition of "physical disability or other reason" is relocated to the definition section from the body of the current law in section AS 47.55.020.

The term "resident of the state" is defined, by reference to existing law AS 47.25.430(a), to mean a person who is living in the state voluntarily with the intention of making the state the person's home and who is not living in the state for a temporary purpose.

The term "veteran" is defined to mean a person who has not been dishonorably discharged from the armed forces of the United States. The term includes the Alaska National Guard or the Alaska Territorial Guard.

Section 25: This section of the bill repeals:

AS 44.20.020(a)(17), which is a separate listing of veterans' home facilities as a duty of the Department of Health and Social Services. The reference is incorporated in AS 44.20.020(a)(16) under section 11 of the bill.

Sections 1-15, ch.4, SSSLA 2002 provided amendments to many of the same sections that are changed in this bill, and those amendments are contingent upon implementation of a pilot project. The pilot project cannot be implemented as envisioned, and so, the contingent language is removed to avoid conflict with the provisions of this bill.

Section 26: Adds a new section to uncodified law that permits a resident of an Alaska Pioneers' Home or Alaska Veterans' Home to remain living in the same facility they are living in when the federal Veterans Administration certifies a home for veterans. This addition to the statute assures residents that they will not be required to move from the facility in which they live unless they wish to do so. Section (b) of the new uncodified language requires the commissioner to promptly post the date of certification on the Alaska Online Public Notice System.

Section 27: Adds a new section authorizing adoption of regulations necessary to implement the changes made by the bill, in accordance with the effective date of the respective statutory changes.

Section 28: Provides instruction to the revisor of statutes for changing the heading of AS 47.55 in line with the changes to the body of the chapter: "Alaska Pioneers' Home and Alaska Veterans' Home."

Section 29: Provides for an immediate effective date for section 27 that authorizes regulations for implementation of the bill.

Section 30: Provides for an effective date for the bill of July 1, 2004 except for section-29.

# MEMORANDUM

State of Alaska  
Department of Law

To: Dennis DeWitt  
Special Staff Assistant  
Office of the Governor

Date: March 8, 2004

File No.: 773-04-0085

Tel. No.: 465-3600

RECEIVED

MAR 09 2004

Office of the Commissioner  
DHSS - Juneau

From: Stacie L. Kraly  
Senior Assistant Attorney General  
Human Services Section

Re: CSSB 301(HES) -- Alaska  
Pioneers' Home and Alaska  
Veterans' Home

At your request I have reviewed the legislative counsel's memorandum to Senator Dyson regarding CSSB 301(HES): Alaska Pioneers' Home and Alaska Veterans' Home. The memorandum was drafted to bring to the chair's attention possible legal issues that might be raised by including the following sentence in the committee substitute "The only home that may be converted to a Veterans' Home is the Pioneers' Home located in Palmer, Alaska." Legislative counsel has raised a concern that the inclusion of this language may subject the bill to equal protection, special or local legislation challenges because it applies only to the Palmer Pioneers' Home when there are other pioneers' homes around the state.

The legislative counsel opines that the state must establish that there is a fair and substantial relationship to a legitimate governmental purpose in this critical issue in order to defend any challenges that might be brought. The legislative counsel states that in order to do this the "state must identify the problem that it is trying to address and document in the legislative history that the approach taken by the bill is reasonably tailored to address the problem." In making this record, the testimony should also outline that the conversion of the Palmer Pioneers' Home is a "matter which is unique, but of statewide concern."

The Department of Law believes that if the bill is challenged under either of the two theories, the legislative history contained within the transmittal letter from the governor, as well as the testimony provided by the state in support of this bill before the legislative committees will provide a solid defense to any legal argument raised. See S. Journal (2004), p. 2086 - 2088.

Equal protection does not require the entire field of governmental action be covered by one legislative enactment. *Suber vs. Alaska State Board Comm.*, 414 P.2d 546, 553 (Alaska). The desire for a phase-in of the new Veteran's Home concept in order

to test implementation within financial and program limits is a rational choice for the legislature to make. The Administration should be sure to include its testimony to the legislature about the reasons for the selection of the Palmer Home and its plan for implementation. The McDowell Group Executive Summary and letters from the Veterans Administration, both of which support placing the Veterans' Home in Palmer, are good places to start in establishing the legislative record.

In order to phase-in implementation of a new concept, it is necessary to designate a starting point, the Palmer Home. The designation of the Palmer Home as a starting point does not make the bill constitutionally suspect as special or local legislation, because there is no way to make the designation in an applicable or general act. *See Boucher v. Engstrom*, 528 P.2d 456, 463 (Alaska 1974).

There is clearly a need for a veterans' home in Alaska and this bill provides the mechanism to achieve that purpose. The determination to specifically designate the Palmer Home is a reasonable method by which the legislature can address the important state interests at issue here. However, it is important to create a legislative record specifically identifying the need to designate the Palmer home to defend a challenge to this bill based on the legal theories discussed above. We believe that this record can be established through the transmittal letter as well as testimony in support of the bill, and possibly any letter of intent that the legislature may want to adopt on the subject.

The Administration may want to consider whether to request a letter of intent from the legislature to address the issue in order to have an express legislative statement on the subject.

Please let us know if you need further assistance.

SLK:mkb

cc: Hon. Joel Gilbertson, Comm'r, Dept. of Health and Social Services ✓  
David Marquez, Chief Attorney General, Legislation & Regulations Section  
Dianne Olsen, Supervising Attorney, Human Services Section

State of Alaska  
**OFFICE OF THE GOVERNOR**

Frank H. Murkowski  
Governor  
P.O. Box 110001  
Juneau, Alaska 99811-0001  
**NEWS RELEASE**



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FOR IMMEDIATE RELEASE: February 5, 2004

No. 04-021

## Governor Proposes Alaska Veterans Home

Bill establishes Veterans Home in Alaska Pioneer Homes system,  
Widens funding available for Pioneer Home system.

(Juneau) – Governor Frank H. Murkowski today introduced a bill that designates a home in the Alaska Pioneer Home system as a state Veterans Home. The bill also enables the State of Alaska to access Veterans Benefits, Medicaid, and other sources to fund the Alaska Pioneer Home system. "Taken together, these actions serve Alaska veterans and help sustain the Pioneer Home system and the Alaska Veterans Home for future years," Murkowski said.

The Governor has endorsed the selection of the Palmer Pioneers Home for conversion to a state Veterans Home. Today, he introduced legislation to address the legal requirements to establish an Alaska Veterans Home that meets the requirements of the federal Veterans Administration.

"The Department of Health & Social Services has already begun the process that will ultimately permit residents of the Pioneer Homes to use their federal benefits while living in a Pioneer Home," Health and Social Services Commissioner Joel Gilbertson said.

"For over 20 years the state has sought a viable way to provide a state Veterans Home," Murkowski said. "Alaska remains one of just two states that do not have a State Veterans Home." In May 2002, the Alaska Legislature passed a bill that was intended to qualify the Pioneer Homes for payment of veterans' benefits. A pilot program to do this was scheduled. However, the state did not reach an agreement with the federal Veterans Administration regarding use of benefits within the full Pioneer Homes system. The studies and discussions resulted in an application to the federal Veterans Administration to designate one Pioneer Home as a state Veterans Home.

Representatives of the federal Veterans Administration visited several of the Alaska Pioneer Homes and agreed that Palmer is the right size and location to serve veterans. The state's application to the federal Veterans Administration proposed a 1-1/2 year project to renovate the Palmer Pioneers' Home, at 65% federal expense, to complete deferred maintenance and modernize the facility. Following the renovation, the federal Veterans Administration will pay the state \$26.95 per day for each veteran served.

The Alaska Veterans Home will eventually serve between 62 and 82 veterans. "No current resident will be asked to move from the Palmer Pioneers Home, and no veteran will be forced to move to the Home," Gilbertson said. "During a transition period, veterans who are in other Pioneer Homes may request a transfer to the Palmer Home. When a bed is available with the level of service they require, the veteran's request for transfer will be accommodated." The per diem payments will be a new source of funding for the Alaska Pioneer Homes, and will help the state Veterans Home become a reality for the veterans and for our state, Gilbertson said.

Provisions in the bill help assure the long-term sustainability of the Alaska Pioneer Home system, by identifying and securing third-party payments from federal sources. In most of the 239 assisted living facilities in Alaska, many residents pay the cost of services through insurance, Medicaid, self-payments and other health care plans. Until recently, residents could not use Medicaid and veterans benefits to pay for Pioneer Homes. Veterans' benefits were only available at certified veterans' homes, and persons living in "public institutions" could not use Medicaid. "We are changing that so veterans' benefits and Medicaid can be used in Alaska Pioneer Homes," Gilbertson said.

Alaska Pioneer Homes -- as licensed assisted living facilities that offer professional nursing services, personal care services, social services, and other support services -- will soon be reimbursed by Medicaid for eligible residents. Those services are defined as residential supported living services under the Older Alaskan's Home and Community-based Services waiver granted by the federal Centers for Medicaid and Medicare Services. Under the Older Alaskans Waiver, assisted living facilities may be paid for providing services to Medicaid eligible persons. Although the Pioneer Homes have been licensed as assisted living facilities for several years, the prohibition has remained in effect until questioned late in 2003. State regulations lifting the ban on Medicaid payments will be effective in the spring of 2004.

###

For more information, please contact

Sherry Hill, Special Assistant to the Commissioner  
Department of Health and Social Services  
(907) 465-1618

Ross Soboleff, Public Information Officer III  
Department of Health and Social Services  
(907) 465-1611

## **Frequently Asked Questions: Alaska Veterans Home & Alaska Pioneer Homes**

**Q: How will the Alaska Veterans Home fit into the Alaska Pioneer Homes system?**

The Palmer Pioneers' Home will be converted into the Alaska Veterans Home, but will remain as one of the six Homes within the Alaska Pioneer Home system. "Certifying" the Alaska Veterans Home means that the facility will be renovated to address deferred maintenance, and to meet requirements of the federal Veterans Administration. After renovation, the federal Veterans Administration will pay \$26.95 per day to the State for each veteran served in the Alaska Veterans Home. Using a nationwide formula, the federal Veterans Administration calculated that Alaska requires a facility providing 79 beds. The federal Veterans Administration is firm in its intent to certify one facility in Alaska, however they may increase the capacity to 82 beds, the capacity of the Palmer Pioneers' Home.

**Q: If I am a veteran living in an Alaska Pioneer Home, will I have to move to the Alaska Veterans Home?**

The choice of whether to move to the Alaska Veterans Home is up to the veteran. Residents who are living in a Pioneer Home will not be required to move to or from the Alaska Veterans Home. When the Alaska Veterans Home is open, veterans on the Pioneer Home waiting list will be given an opportunity to choose to enter the Alaska Veterans Home or another Pioneer Home. Admission to a Pioneer Home will continue to be based on availability of a bed and services appropriate to the need of the applicant.

**Q: Will people living in the Palmer Pioneers' Home be required to move to another Pioneers' Home?**

No. Current residents of the Palmer Pioneer Home will not be asked to move to another Home. The agreement between the Alaska Department of Health & Social Services and the federal Veterans Administration provides for a transition period of several years, during which time current residents of the Palmer Pioneers' Home will not have to move. Beyond the transition period, the federal Veterans Administration will permit 20 beds in the facility to continue to be used by non-veterans.

**Q: Will people who are not veterans be allowed to move to the Palmer Pioneers' Home after it's converted to the Alaska Veterans Home?**

Yes. After a transition period, the federal Veterans Administration requires that 62 of the 82 beds in the facility be reserved for veterans. The remaining 20 beds in the facility will be filled using the Pioneer Homes waiting list.

**Q: Will a veteran be charged a different rate?**

No. The rates are based on the level of care the resident requires and will not differ because the resident is a veteran.

**Q: If I am a veteran and intend to move into the Alaska Veterans Home, will my federal veterans disability benefits help pay for my cost of care?**

These benefits are salary replacement benefits and are counted as regular income for purposes of covering the cost of care. These benefits are typically available to pay for the cost of state veteran's home services in other states.

**Q: How much will the federal Veterans Administration pay?**

The federal Veterans Administration will eventually pay the state \$26.95 per day for domiciliary care provided to veterans in the Alaska Veterans Home. That amount will pay part of the daily rate billed to the resident.

**Q: I already have payment assistance from the State. Do I also need to apply for "federally sponsored programs" like Medicaid?**

If you require payment assistance and are eligible for Medicaid, you probably won't notice a difference – Pioneer Homes services and rates won't change. However, part of your payment assistance will be federally funded. The federal funding will help sustain Alaska Pioneer Homes into the future, because State General Funds will not be paying the entire cost of payment assistance for residents.

Virginia Smiley, Administrative Services Manager  
Division of Alaska Pioneer Homes  
465-4422

# Fact Sheet: Alaska Pioneer Homes

February 3, 2004

## The facilities

There are six Homes with a total of 602 beds. The homes are located in:

Anchorage -- <http://hss.state.ak.us/dalp/alp/anchorage/home.htm>

Fairbanks -- <http://hss.state.ak.us/dalp/alp/fairbanks/home.htm>

Juneau -- <http://hss.state.ak.us/dalp/alp/juneau/home.htm>

Ketchikan -- <http://hss.state.ak.us/dalp/alp/ketchikan/home.htm>

Palmer -- <http://hss.state.ak.us/dalp/alp/palmer/home.htm>

Sitka -- <http://hss.state.ak.us/dalp/alp/sitka/home.htm>

## The services we provide to clients

For the last decade the Alaska Pioneer Homes have been licensed as assisted living facilities, offering a high degree of professional services to meet residents' needs. Typically, residents of the Homes are not able to live without some form of daily assistance, and may require nursing and other physical and emotional support services offered in a licensed assisted living facility. Professional services range from assurance of a safe environment and occasional help with daily life skills, to skilled nursing, personal care, and other support services including end of life care. Many residents receive a level of service that would otherwise be delivered in a nursing home or under the Older Alaskan Home and Community-Based Medicaid waiver.

## The residents

Occupancy of Pioneer Homes fluctuates, but system-wide as of January 2004 there are 427 residents. All residents require a safe home environment, room and board, and opportunities for social interaction and recreation. Of the 427 residents, 253 require the high levels of professional care available 24-hours a day. Another 117 residents need assistance with basic living skills at some time during the day, and 57 residents are fairly self-sustaining, occasionally requiring emergency assistance.

## Veterans in Pioneer Homes

During FY 2003, the Pioneer Homes served 553 seniors, of whom about 20 percent are veterans and about 26 percent had qualified for Medicaid before going into the Home. There were over 2,600 qualified Alaskan residents on the waiting list, which means they are over age 65 and intend to enter the Pioneer Homes in the future.

## Rates and how residents pay them

The rates for the Pioneer Homes range from \$2,135 per month for housing with some assistance in making appointments and other social services, to \$6,450 for the highest level of care including 24-hour supervision, extensive assistance with activities of daily living, and intermittent health care. About 60 percent of Pioneer Home residents depend on the state-funded payment assistance program to pay for at least part of the monthly rate.

For more information:

Dave Williams, Project Coordinator  
Division of Alaska Pioneer Homes  
465-5737

## Chronology, Alaska Veterans Home

1970s – Alaska begins 20-year search for a way to address veteran's benefits within the State.

1999 – Feasibility Study for a State Veterans Home requested by Department of Military & Veterans' Affairs, Division of Veterans' Affairs, State of Alaska, and partners including the American Legion, Disabled American Veterans, and the Veterans of Foreign Wars. Health Dimensions Consulting Group feasibility study recommends a comprehensive survey of Alaskan veterans to assess their preferences for long-term care services.

May 2002 – HCS SB 2001(FIN) SLA 2002 authorizes a pilot project to give veterans a preference for 125 beds in the Pioneer Homes system, contingent on an agreement between the federal Department of Veterans Affairs and the State of Alaska. The agreement is not negotiated; the bill's provisions do not take effect.

July 2003 – Alaska Legislature's "Alaska State Veterans Home Feasibility Study", completed by the McDowell Group, supports the need for 70 to 80 veterans beds in the Pioneer Homes system. The McDowell report provides three options: 1) convert Palmer Pioneers' Home to a State Veterans Home, 2) Convert 60 beds in the Anchorage Pioneers' Home and 19 Beds in Fairbanks Pioneers' Home, or 3) build a new, freestanding, 60-bed State Veterans Home in or near Anchorage.

July 30, 2003 – Governor Murkowski identifies creation of a State Veterans Home in Palmer as an Administration priority, following face-to-face meetings in Washington DC with Secretary of Veteran's Affairs Anthony J. Principi.

July 2003 – State submits initial federal Veterans Administration application.

August 2003 – federal Veterans Administration representatives visit Palmer and Anchorage facilities. Veterans Administration facilities, geriatrics and care coordination representatives find Palmer appropriate for conversion with identified maintenance improvements and upgrades to facility systems.

Sept 2003 – Veterans Administration conditionally approves 79 beds for Palmer facility. Federal Veteran Administration participation is calculated at 65 percent of the total allowable cost of improvements. All 82 beds at Palmer are ultimately approved – *minimum* of 62 beds are designated for veterans.

Sept 2003 – Health & Social Services Commissioner Joel Gilbertson presents the Palmer option to Pioneers of Alaska Convention.

Dec 2003 – federal Veterans Administration approves "General Renovations, 79-bed Veterans Home, Palmer, AK." Federal Veterans Administration lists Alaska in its top rank for federal renovation funds, pending appropriation of state matching funds. Construction cost, facility size, and proximity to military health center justify Palmer's high priority for funding.

January 2004 – Construction schedule says Palmer Pioneers' Home can be renovated in 453 days, after completion of federal Department of Veterans Affairs construction/acquisition grant and legislative approval of state funding match.

Feb 2004 – Congressional Bill (HR 2673) provides for federal Veterans Administration payment to Pioneer Homes. No information as yet on how the Veterans Administration will employ the language.

#### Calendar

- April 2004 – A study of the feasibility of converting the Palmer Pioneers' Home into a Veteran's Home, requested by the legislature and awarded to ASCG Incorporated (engineers/architects) will identify costs for renovation and the amount of state matching funds required for federal Veterans Administration participation. A subcontractor (McDowell Group) will conduct a community impact analysis and collaborate on development of a transition plan for the federal construction/acquisition grant application.
- May 2004 – Alaska Veterans Home bill passes; State certifies 35% matching funds.
- Sept 2004 – Begin transition plan, making admissions to the Alaska Veterans Home in Palmer.
- April 2006 – Earliest possible beginning date for federal Veterans Administration per diem payments to Alaska -- \$26.95/day for residents of the Alaska Veterans Home.

#### For more information:

Virginia Smiley, Administrative Services Manager  
Division of Alaska Pioneer Homes  
465-4422

# ***Alaska State Veterans Home Feasibility Study***

*PREPARED FOR:*

**Alaska State Legislature  
Legislative Budget and Audit Committee**

*PREPARED BY:*



**Juneau • Anchorage**

*IN ASSOCIATION WITH:*



*July 2003*

### Study Purpose

This study analyzes the feasibility of an Alaska State Veterans Home. Alaska and Hawaii are currently the only states that do not participate in the Department of Veterans Affairs State Home Program. Alternatives considered for Alaska include a freestanding State Veterans Home, utilization of the Alaska Pioneers' Home system to serve veterans, and the role of home and community-based care. A key element of the study was a statewide survey of Alaska veterans to learn about their long-term care needs, their personal preferences regarding long-term care settings, and their opinions about the locations and types of long-term care that make the most sense for Alaska's veterans.

### Key Findings

- The number of veterans over age 65 in Alaska will increase from approximately 12,000 in 2000 to 20,000 by 2020. During that time, the overall number of veterans in the state will decline from about 70,000 to 50,000.
- There will be a need for additional long-term care services for Alaska veterans over the next 15 to 20 years. Some of this need could be met by a small State Veterans Home located in the most heavily populated part of the state, the Anchorage/Matanuska-Susitna region.
- A large majority of Alaska veterans - approximately 80 percent - would be reluctant to leave their home communities to obtain long-term care. This means that any single facility would be unable to serve veterans statewide.
- Estimates indicate a demand for 55 to 65 additional nursing home beds and 65 to 75 additional domiciliary/assisted living beds under the Department of Veterans Affairs (VA) State Home Program to serve veterans statewide by 2015. Approximately half of this demand is located in the Anchorage area.
- Major renovations or a new facility to provide long-term care to veterans would be partially funded by the VA, but would require financial commitments from the State both for construction and operations.
- Additional home and community-based care will be needed, particularly in the more rural areas of the state. Recent changes in the VA's vision of veterans' long-term care call for a "patient-centered" (rather than institutional) approach that utilizes home and community-based care as much as possible.

### Conclusions

- Any new facility of a size large enough to be operated efficiently would need to be located in or near Anchorage. The appropriate size for such a facility is between 70 and 80 beds.

- However, a centrally located facility will not serve the needs of most veterans from outlying regions. For this reason, future state support for home and community-based veterans services will be needed.
- Most of the nursing home needs of veterans over the next 15 to 20 years can be met by the existing network of Community Nursing Homes, though the network may need to add some additional beds in the future to do so.
- The best way for a State Veterans Home to meet veterans' needs is by ensuring access to assisted living-type services specifically designed for them, including the higher levels of assisted living care currently provided by the Alaska Pioneers' Home System.

## Recommendations

The study identified three "bricks and mortar" options for consideration. The three most promising approaches to developing an Alaska State Veterans Home are:

**Option 1 - Convert the Palmer Pioneers' Home to a 78-bed State Veterans Home providing a range of levels of assisted living care similar to current Pioneers' Home services. Continue to provide services to veterans in the other Pioneers' Homes under the current system. This option requires the least state operating support. It adds no new beds to the system and allows the VA to pay a portion of the cost of veterans' care through State Home per diem reimbursements for domiciliary care.**

**Option 2 - Convert 60 beds in the Anchorage Pioneers' Home and 19 beds in the Fairbanks Pioneers' Home to a State Home providing services as in Option 1. This is somewhat more cumbersome administratively than Option 1, but has the advantage of spreading services across the two largest population centers. It would cost the state more than Option 1 because some of the Anchorage beds that would be provided to veterans are currently unused and are not funded. Similar to Option 1, this option allows the VA to pay a portion of veterans' care using the domiciliary per diem reimbursement rate.**

**Option 3 - Build a new, freestanding, 60-bed State Veterans Home in or near Anchorage. Half the beds would be nursing home beds and half would be assisted living units. This option would be the most expensive for the State for both construction and operations. A Certificate of Need (CON) process would be required under Alaska law to authorize the 30 new skilled nursing beds.**

	Total Capital Costs*	Annual State Operating Support
Option 1	\$1.4 million	\$247,000 net gain
Option 2	\$5.3 million	\$255,000 net gain
Option 3	\$9.4 million	\$2.8 million additional cost

\* Capital costs shown are designed to meet VA State Home Program basic requirements with respect to modifications or new construction. They are paid 65 percent by the VA and 35 percent by the State.

In addition to the options above, the study team recommends that Alaska explore development of a PACE (Program of All Inclusive Care of the Elderly) model in conjunction with Indian Health Services to serve veterans, particularly in rural areas.

**FRANK H. MURKOWSKI**  
Governor  
0001



P.O. Box 110001  
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(907) 465-3500  
Fax (907) 465-3532

**STATE OF ALASKA**  
OFFICE OF THE GOVERNOR  
JUNEAU

**MEMORANDUM**

**TO:** Representative Nick Stepovich  
Representative Max Gruenberg

**DATE:** March 6, 2004

**FROM:** Denny DeWitt  
**E-MAIL:** dennis\_dewitt@gov.state.ak.us

**TELEPHONE:** (907) 465-3500  
**FAX:** (907) 465-3532

**SUBJECT:** Merchant Marine Veteran Status

You asked if Merchant Marines would be eligible as veterans to enter the Alaska Veterans Home proposed in House Bill 440.

We asked the Veterans Administration about the issue. They provided us with the following information:

*On January 19, 1998, the Secretary of the Air Force declared certain Merchant Marine service as qualifying for Veterans benefits. Merchant seamen who served in active oceangoing service from December 7, 1941 to August 15, 1945 are considered to be veterans. Also eligible are Civil Service crewmembers serving aboard U.S. Army Transport Service and Naval Transportation Service vessels in oceangoing service. If they wish to be considered for VA benefits, they should apply for a discharge certificate (DD Form 214) by completing DD Form 2168 (Application For Discharge of Member or Survivor of Member of Group Certified To Have Performed Active Duty With the Armed Services of the United States).*

This directive makes specified members of the Merchant Marines eligible for veterans' benefits, including state veterans' home benefits.

Re: SB 301 - Pioneers' Homes / Veterans' Homes

**SB**

**301**

**SFIN**

**FILE**

**SENATE FINANCE COMMITTEE REPORT**

DATE: 3/2/04

REPORTED OUT  
MAR 2 6 2004  
SENATE FINANCE  
COMMITTEE

FURTHER:

DATE TURNED  
IN TO OFFICE: 3/26/04

Finance Committee considered

SENATE BILL NO. 301

**SB 301 PIONEERS' HOMES/VETERANS' HOMES**

"An Act relating to the Alaska Pioneers' Home, and the Alaska Veterans' Home; relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home; relating to state veterans' home facilities; making conforming amendments; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 301 (FIN)
- adopt previous \_\_\_\_\_ CS CS FORTHCOMING (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by HES Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- Same Title
- New Title

**House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero.	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DHSS	1/12/04			✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>C. Bendo</i>	✓			
<i>Bob Stuenkel</i>	✓			
<i>Adrian Bell</i>			✓	
<i>Frank...</i>	✓			
COCHAIR: <i>Lyla Green</i>	✓			
COCHAIR: <i>Gary...</i>				

CS FOR SENATE BILL NO. 301(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Pioneers' Home and the Alaska Veterans' Home; relating  
2 to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home;  
3 relating to the eligibility of residents for the Alaska Pioneers' Home and the Alaska  
4 Veterans' Home for general relief assistance; relating to state veterans' home facilities;  
5 making conforming amendments; and providing for an effective date."

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

7 \* Section 1. AS 08.68.395(g)(2) is amended to read:

8 (2) "health care facility" means a private, municipal, state, or federal  
9 hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney  
10 disease treatment center (excluding freestanding hemodialysis units), intermediate care  
11 facility, or Alaska Pioneers' Home or Alaska Veterans' Home administered by the  
12 Department of Health and Social Services [ADMINISTRATION] under AS 47.55.

13 \* Sec. 2. AS 15.05.020 is amended to read:

1           **Sec. 15.05.020. Rules for determining residence of voter.** For the purpose  
2 of determining residence for voting, the place of residence is governed by the  
3 following rules:

4           (1) A person may not be considered to have gained a residence solely  
5 by reason of presence nor may a person lose it solely by reason of absence while in the  
6 civil or military service of this state or of the United States or of absence because of  
7 marriage to a person engaged in the civil or military service of this state or the United  
8 States, while a student at an institution of learning, while in an institution or asylum at  
9 public expense, while confined in public prison, while engaged in the navigation of  
10 waters of this state [,] or the United States or of the high seas, while residing upon an  
11 Indian or military reservation, or while residing in the Alaska Pioneers' Home or the  
12 Alaska Veterans' Home.

13           (2) The residence of a person is that place in which the person's  
14 habitation is fixed, and to which, whenever absent, the person has the intention to  
15 return. If a person resides in one place, but does business in another, the former is the  
16 person's place of residence. Temporary construction camps do not constitute a  
17 dwelling place.

18           (3) A change of residence is made only by the act of removal joined  
19 with the intent to remain in another place. There can only be one residence.

20           (4) A person does not lose residence if the person leaves home and  
21 goes to another country, state, or place in this state for temporary purposes only and  
22 with the intent of returning.

23           (5) A person does not gain residence in any place to which the person  
24 comes without the present intention to establish a permanent dwelling at that place.

25           (6) A person loses residence in this state if the person votes in another  
26 state's election, either in person or by absentee ballot, and will not be eligible to vote  
27 in this state until again qualifying under AS 15.05.010.

28           (7) [REPEALED

29           (8)] The term of residence is computed by including the day on which  
30 the person's residence begins and excluding the day of election.

31           (8) [(9) REPEALED

1 (10)] The address of a voter as it appears on an official voter  
 2 registration card is presumptive evidence of the person's voting residence. This  
 3 presumption is negated only by the voter notifying the director in writing of a change  
 4 of voting residence.

5 \* Sec. 3. AS 17.37.070(6) is amended to read:

6 (6) "facility monitored by the department or the Department of  
 7 Administration" means an institution, building, office, or home operated by the  
 8 department or the Department of Administration, funded by the department or the  
 9 Department of Administration, under contract with the department or the Department  
 10 of Administration, inspected by the department or the Department of Administration,  
 11 designated by the department or the Department of Administration, or licensed by the  
 12 department or the Department of Administration, for the care of

13 (A) juveniles; for the purposes of this subparagraph,  
 14 "institution" includes a foster home and a group home, and a juvenile detention  
 15 facility, a juvenile detention home, a juvenile work camp, and a treatment  
 16 facility, as those terms are defined in AS 47.14.990;

17 (B) the elderly; for the purposes of this subparagraph,  
 18 "institution" includes

19 (i) an assisted living home as defined in AS 47.33.990; and

20 (ii) the Alaska [A] Pioneers' Home or the Alaska Veterans'  
 21 Home, operated under AS 47.55;

22 (C) the mentally ill; for the purposes of this subparagraph,  
 23 "institution" includes a designated treatment facility and an evaluation facility,  
 24 as those terms are defined in AS 47.30.915;

25 \* Sec. 4. AS 18.07.111(8) is amended to read:

26 (8) "health care facility" means a private, municipal, state, or federal  
 27 hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney  
 28 disease treatment center (including freestanding hemodialysis units), intermediate care  
 29 facility, and ambulatory surgical facility; the term excludes

30 (A) the [AN] Alaska Pioneers' Home and the Alaska  
 31 Veterans' Home administered by the Department of Health and Social

1            Services [ADMINISTRATION] under [AS 44.21.02(9) AND] AS 47.55; and

2                            (B) the offices of private physicians or dentists whether in  
3            individual or group practice;

4        \* **Sec. 5.** AS 18.35.300 is amended to read:

5            **Sec. 18.35.300. Places where smoking is regulated.** Smoking in any form is  
6            a nuisance and a public health hazard and is prohibited in the following vehicles and  
7            indoor places, except as allowed under AS 18.35.310:

8                            (1) a vehicle of public transportation and a waiting, baggage, or  
9            boarding area for a vehicle of public transportation, including a bus, ferry vessel, train,  
10            limousine for hire, taxicab, or scheduled interstate or intrastate aircraft flight when  
11            consistent with federal law;

12                            (2) a place of employment, a building or other structure, or a portion of  
13            them, owned, leased, or operated by the state or a political subdivision of the state,  
14            including an office, library, museum, theater, concert hall, convention hall,  
15            gymnasium, swimming pool, or other place of entertainment or recreation;

16                            (3) a public or private postsecondary educational institution or adult  
17            day care facility;

18                            (4) a courtroom or jury deliberation room;

19                            (5) a room, chamber, or other place under the control of the state  
20            senate or state house of representatives while a public meeting or public assembly is  
21            not in progress;

22                            (6) a nursing home, rest home, or other residential health care  
23            institution or facility, or a public or private office or facility that is engaged primarily  
24            in providing mental health services;

25                            (7) a food service establishment that has a seating capacity of at least  
26            50 persons;

27                            (8) a grocery store or other store maintained primarily for the retail  
28            sale of food products;

29                            (9) a place of employment in which the owner, manager, proprietor, or  
30            other person who has control of the premises posts a sign stating that smoking is  
31            prohibited by law;

1 (10) a correctional facility; and

2 (11) the Alaska [A] Pioneers' Home or the Alaska Veterans' Home.

3 \* Sec. 6. AS 36.30.990(1) is amended to read:

4 (1) "agency"

5 (A) means a department, institution, board, commission,  
6 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska  
7 Veterans' Home, or other administrative unit of the executive branch of state  
8 government;

9 (B) does not include

10 (i) the University of Alaska;

11 (ii) the Alaska Railroad Corporation;

12 (iii) the Alaska Housing Finance Corporation;

13 (iv) a regional Native housing authority created under  
14 AS 18.55.996 or a regional electrical authority created under  
15 AS 18.57 020;

16 (v) the Department of Transportation and Public  
17 Facilities, in regard to the repair, maintenance, and reconstruction of  
18 vessels, docking facilities, and passenger and vehicle transfer facilities  
19 of the Alaska marine highway system;

20 (vi) the Alaska Aerospace Development Corporation;

21 (vii) the Alaska State Pension Investment Board;

22 (viii) the Alaska Seafood Marketing Institute;

23 \* Sec. 7. AS 37.05.146(c)(31) is amended to read:

24 (31) Alaska Pioneers' Home and Alaska Veterans' Home care and  
25 support receipts under AS 47.55.030;

26 \* Sec. 8. AS 37.05.990(2) is amended to read:

27 (2) "state agency," "agency," "department," or similar term means a  
28 department, office, institution, board, commission, bureau, division, or other  
29 administrative unit forming the state government, and includes the Alaska Pioneers'  
30 Home, the Alaska Veterans' Home, and the University of Alaska.

31 \* Sec. 9. AS 37.07.120(1) is amended to read:

1 (1) "agency" means a department, officer, institution, board,  
 2 commission, bureau, division, or other administrative unit forming the state  
 3 government and includes the Alaska Pioneers' Home, the Alaska Veterans' Home,  
 4 and the University of Alaska, but does not include the legislature or the judiciary;

5 \* Sec. 10. AS 39.25.120(c)(8) is amended to read:

6 (8) Alaska Pioneers' Home and Alaska Veterans' Home managers;

7 \* Sec. 11. AS 44.29.020(a)(16) is amended to read:

8 (16) the Alaska Pioneers' Home and the Alaska Veterans' Home  
 9 [HOMES];

10 \* Sec. 12. AS 47.25.140 is amended to read

11 Sec. 47.25.140. Residents of public institutions. Payment under  
 12 AS 47.25.120 - 47.25.300 may not be made to or on [IN] behalf of an individual who  
 13 is a resident of a [THE ALASKA PIONEERS' HOME OR OTHER] public institution,  
 14 except as a patient in a public medical institution, or an individual who is a patient in a  
 15 public or private institution for tuberculosis or mental disease. A resident of a [THE  
 16 ALASKA PIONEERS' HOME OR OTHER] public institution who is otherwise  
 17 eligible to receive an allowance under AS 47.25.120 - 47.25.300 may apply for the  
 18 allowance instead of the support and maintenance provided in the [HOME OR] public  
 19 institution.

20 \* Sec. 13. AS 47.25.140 is amended by adding a new subsection to read:

21 (b) In this section, "public institution" does not include the Alaska Pioneers'  
 22 Home or the Alaska Veterans' Home.

23 \* Sec. 14. AS 47.45.240(c) is amended to read:

24 (c) The commission may not investigate, review, or undertake any  
 25 responsibility for the longevity bonus program under AS 47.45.010 - 47.45.160 or the  
 26 Alaska Pioneers' Home or Alaska Veterans' Home [HOMES] under AS 47.55.

27 \* Sec. 15. AS 47.55.010 is repealed and reenacted to read:

28 Sec. 47.55.010. Maintenance of Alaska Pioneers' Home and Alaska  
 29 Veterans' Home. (a) The state shall maintain facilities known as the Alaska  
 30 Pioneers' Home at Sitka and at other sites designated by the commissioner of health  
 31 and social services. The state may maintain one or more facilities known as the

1 Alaska Veterans' Home at sites designated by the commissioner of health and social  
2 services. The only Pioneers' Home that may be maintained as a Veterans' Home is the  
3 Pioneer's Home located in Palmer, Alaska. The Alaska Pioneers' Home and the  
4 Alaska Veterans' Home shall be collectively administered by the Department of  
5 Health and Social Services as the Alaska Pioneers' Home and Alaska Veterans' Home.

6 (b) The department shall formulate general policies for the homes designated  
7 under (a) of this section. It may hold hearings and subpoena witnesses and documents  
8 and may administer oaths in connection with the homes.

9 (c) The department shall

10 (1) cooperate with the federal government in matters pertaining to the  
11 welfare of Alaska pioneers and of veterans who reside in the homes operated under  
12 this chapter, make the reports in the form and containing the information the federal  
13 government from time to time desires, and accept money allotted by the federal  
14 government, its agencies, or its instrumentalities in establishing, extending, and  
15 strengthening services for pioneers and veterans who reside in a home operated under  
16 this chapter;

17 (2) adopt regulations necessary to conduct business and to carry out  
18 the provisions of this chapter, require bonds and undertakings from persons employed  
19 by a home as in its judgment are necessary, and pay the premiums on them, and  
20 establish regional and local offices and the advisory groups that are necessary or  
21 considered expedient to carry out or assist in carrying out a duty or authority assigned  
22 to it;

23 (3) perform all executive or administrative duties necessary and  
24 advisable to carry out the purpose of this chapter, including the power to make  
25 contracts and to make disbursements on vouchers against appropriations for the  
26 purpose of this chapter, within the limit of appropriations available;

27 (4) study the needs of pioneers and veterans of this state who reside in  
28 the homes operated under this chapter and submit recommendations for new  
29 regulations and proposed legislation.

30 (d) The department may employ the necessary subordinate officers and  
31 employees, and shall prescribe methods for operation of the homes, standards of care

1 and service to home residents, and rules governing personnel. The methods for  
2 operation and standards of care and services to residents prescribed under this  
3 subsection shall be the same as the methods for operation and standards of care  
4 established by the department for an assisted living home licensed under AS 47.33.

5 (e) The department may engage in activities directed to increase revenue from  
6 a home. These activities may include the lease of excess bed or floor space, up to 50  
7 percent of the total floor space in a home, or lease of space or buildings that are not in  
8 use or are underutilized.

9 \* Sec. 16. AS 47.55.020 is repealed and reenacted to read:

10 Sec. 47.55.020. Admission to a home. (a) Every person residing in the state  
11 who is 65 years of age or older, has been a resident of the state continuously for more  
12 than one year immediately preceding application for admission, and is in need of  
13 residence at a home because of physical disability or other reason, is eligible for  
14 admission to the Alaska Pioneers' Home or the Alaska Veterans' Home under  
15 conditions prescribed in regulations. The spouse of a person who is eligible for  
16 admission under other provisions of this subsection is also eligible for admission to a  
17 home under conditions prescribed by the department if the spouse is 65 years of age or  
18 older and has been a resident of the state continuously for more than one year  
19 immediately preceding application for admission.

20 (b) Every person admitted to a home who receives income from any source in  
21 excess of \$100 a month shall be required by the department to pay the excess to the  
22 department immediately upon receipt of the money in payment, or part payment, of  
23 the cost of the person's care. However, the department may not require in any month  
24 the payment of an amount greater than the monthly rate set under AS 47.55.030(b)  
25 except to satisfy indebtedness incurred under AS 47.55.070. The department may not  
26 evict a person from a home if the income and assets of the person are insufficient to  
27 pay the monthly rate set under AS 47.55.030(b) and the person is otherwise in  
28 compliance with requirements under this chapter.

29 (c) At the end of each month, the payments made under (b) of this section  
30 shall be transmitted to the commissioner of revenue. The department may pay the sum  
31 of \$100 a month to a resident without money.

1 (d) Notwithstanding AS 47.55.070 and (b) of this section, a resident of a home  
 2 whose income, assets, and other resources are insufficient to pay the monthly rate set  
 3 under AS 47.55.030(b), and who does not have private insurance to cover the cost of  
 4 care, qualifies for payment assistance if the resident is otherwise in compliance with  
 5 requirements under this chapter. The amount of payment assistance equals the amount  
 6 needed, when added to other income and assets of the resident, to pay the monthly rate  
 7 set under AS 47.55.030(b). Payment assistance received by a home resident is a debt  
 8 to the state. In determining the amount of payment assistance for which a home  
 9 resident qualifies, the following income, assets, and other resources of the resident  
 10 shall be disregarded:

11 (1) income from any source in an amount up to \$100 a month as  
 12 established by the department by regulation;

13 (2) the following assets received under 43 U.S.C. 1601 - 1629g  
 14 (Alaska Native Claims Settlement Act):

15 (A) cash dividends and other income equal to at least \$2,000 as  
 16 established by the department by regulation;

17 (B) stock;

18 (C) noncash dividends from stock; and

19 (D) land;

20 (3) a permanent fund dividend issued under AS 43.23;

21 (4) compensation to volunteers under the federal retired and senior  
 22 volunteers (42 U.S.C. 5001), foster grandparents (42 U.S.C. 5011), and senior  
 23 companion (42 U.S.C. 5013) programs made in accordance with 42 U.S.C. 5044(f);

24 (5) federal World War II restitution payments made under 50 U.S.C.  
 25 App. 1989b-4 and c-5;

26 (6) payments under AS 18.67 (Violent Crimes Compensation Board);

27 (7) an amount, determined by the department by regulation, that is  
 28 sufficient for burial expenses of the resident, the resident's spouse, and dependents of  
 29 the resident;

30 (8) real property being used as the primary residence of the resident's  
 31 spouse or a dependent of the resident;

1 (9) other real or personal property equal to at least a total value of  
2 \$5,000 as established by the department by regulation.

3 (e) As a condition for receipt of payment assistance under (d) of this section,  
4 the department, under regulations adopted by the department, may require a person to  
5 apply for other state or federally sponsored programs that may reduce the amount of  
6 the payment assistance.

7 \* **Sec. 17.** AS 47.55.030(a) is amended to read:

8 (a) A person eligible for admission under AS 47.55.020 may, on application,  
9 be admitted to the Alaska Pioneers' Home or the Alaska Veterans' Home [HOME]  
10 upon the person's agreement to pay to the state each month an amount the department  
11 [DEPARTMENT OF HEALTH AND SOCIAL SERVICES] considers sufficient to  
12 compensate the state for the cost of care and support of the person at the home. When  
13 this agreement is entered into, the department [DEPARTMENT OF HEALTH AND  
14 SOCIAL SERVICES] may require security for the payments.

15 \* **Sec. 18.** AS 47.55.030(c) is amended to read:

16 (c) The department [DEPARTMENT OF HEALTH AND SOCIAL  
17 SERVICES] shall provide to all residents of the homes [PIONEERS' HOME] written  
18 notice of any proposed change in the rate charged for care and support of persons at  
19 the homes [HOME]. Notice under this section shall be given not less than 60 days  
20 before a change is adopted. The notice must include the time, date, and place of a  
21 hearing to be held by the department [DEPARTMENT OF HEALTH AND SOCIAL  
22 SERVICES] under (d) of this section. The department may not change the rate  
23 charged more than once in a fiscal year.

24 \* **Sec. 19.** AS 47.55.040 is amended to read:

25 **Sec. 47.55.040. Transfer of mentally ill residents to an [ANOTHER]  
26 institution.** A person regularly admitted into the Alaska Pioneers' Home or the  
27 Alaska Veterans' Home [HOME] who is found to be insane may be transferred to an  
28 institution provided for the care and custody of insane persons for the state in the  
29 manner provided by law for the admission of other persons to the institution.

30 \* **Sec. 20.** AS 47.55.050 is amended to read:

31 **Sec. 47.55.050. Maintenance funds.** The legislature shall, each session,

1 appropriate the necessary funds for the maintenance of the Alaska Pioneers' Home  
 2 and the Alaska Veterans' Home [HOME] to be expended by the department  
 3 [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], and the [THAT]  
 4 department may receive funds, donations, and bequests from private individuals,  
 5 societies, or organizations, and funds from the federal government for the support and  
 6 maintenance of the homes [HOME].

7 \* Sec. 21. AS 47.55.060 is amended to read:

8 **Sec. 47.55.060. Trust fund.** Unless otherwise provided by the donor, money  
 9 bequeathed to the Alaska Pioneers' Home or the Alaska Veterans' Home constitutes  
 10 a special trust fund. Unless otherwise provided by the donor, interest from the special  
 11 trust fund is under the control and at the disposal of the department [DEPARTMENT  
 12 OF HEALTH AND SOCIAL SERVICES], and expenditure from it is limited to the  
 13 benefit and comfort of the residents of the homes [HOME].

14 \* Sec. 22. AS 47.55.070 is repealed and reenacted to read:

15 **Sec. 47.55.070. Indebtedness of Alaska Pioneers' Home or Alaska**  
 16 **Veterans' Home resident to state.** The following expenses incurred for an Alaska  
 17 Pioneers' Home or Alaska Veterans' Home resident under this chapter and not  
 18 recoverable from a collateral source are a debt of the resident to the state and may be  
 19 recovered during the life of the resident:

20 (1) costs of standard or nursing care provided in the home each month  
 21 to the resident not exceeding the rate established by the department under  
 22 AS 47.55.030, with credit given for any amounts paid by or collected from the  
 23 resident;

24 (2) allowances paid under AS 47.55.020(c);

25 (3) arrearages in fees for television and telephone services provided in  
 26 the home; and

27 (4) prescription medicine.

28 \* Sec. 23. AS 47.55.095 is amended to read:

29 **Sec. 47.55.095. Limitation on enforcement of claims against estate.**  
 30 Notwithstanding AS 47.55.080 and 47.55.090, upon the death of an Alaska [A]  
 31 Pioneers' Home or Alaska Veterans' Home resident or of a recipient of day care or

1       respice services, a state claim for unpaid debt owed to the home [PIONEERS' HOME]  
 2       may be satisfied only out of the decedent's estate. The state may not pursue a claim to  
 3       the extent doing so would work undue hardship, as determined by the department by  
 4       regulation [OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES], on  
 5       the surviving spouse or dependent of the decedent. Family portraits and heirlooms of  
 6       the type identified under AS 09.38.020(a)(3), without regard to value, may not be  
 7       taken by the state in satisfaction of a debt to the home [PIONEERS' HOME].

8       \* **Sec. 24** AS 47.55 is amended by adding a new section to read:

9               **Sec. 47.55.900. Definitions.** In this chapter, unless the context otherwise  
 10       requires,

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

12                       (2) "home" means

13                               (A) the Alaska Pioneers' Home; or

14                               (B) the Alaska Veterans' Home;

15                       (3) "physical disability or other reason" means inability of an  
 16       individual to maintain a household without regular assistance in shopping,  
 17       housekeeping, meal preparation, dressing, or personal hygiene because of physical or  
 18       medical impairment, infirmity, or disability;

19                       (4) "resident of the state" has the meaning given "resident" in  
 20       AS 47.25.430(a);

21                       (5) "veteran" means a person who has been discharged from the armed  
 22       forces of the United States, including the Alaska National Guard or the Alaska  
 23       Territorial Guard; the discharge from the armed forces must be other than  
 24       dishonorable.

25       \* **Sec. 25.** (a) AS 44.29.020(a)(17) and 44.29.400 are repealed.

26                       (b) Sections 5 and 8 - 15, ch. 4, SSSLA 2002, as those sections are amended  
 27       by a version of HB 447, if HB 447 is passed by the Second Session of the Twenty-  
 28       Third Alaska State Legislature and enacted into law, are repealed.

29                       (c) Sections 50 and 51 of HB 447 or the equivalent bill sections of a later  
 30       version of HB 447, if passed by the Second Session of the Twenty-Third Alaska State  
 31       Legislature and enacted into law, are repealed.

1 \* Sec. 26. The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3 TRANSITION: STATUS OF CERTAIN RESIDENTS OF THE ALASKA  
4 PIONEERS' HOME OR THE ALASKA VETERANS' HOME. (a) If a resident of an Alaska  
5 Pioneers' Home facility or Alaska Veterans' Home facility was admitted to the facility before  
6 the Department of Health and Social Services received the United States Veterans  
7 Administration certification for the Alaska Veterans' Home to begin receiving per diem  
8 payments for eligible veterans, the resident may not be evicted or required to relocate to a  
9 different Alaska Pioneers' Home or Alaska Veterans' Home facility solely because of that  
10 certification.

11 (b) The commissioner of the health and social services shall promptly post on the  
12 Alaska Online Public Notice System (AS 44.62.175) the date that the certification described  
13 in (a) of this section was received.

14 \* Sec. 27. The uncodified law of the State of Alaska is amended by adding a new section to  
15 read:

16 TRANSITION: REGULATIONS. The Department of Health and Social Services  
17 and other state agencies affected by this Act may immediately proceed to adopt regulations  
18 necessary to implement the changes made by this Act. The regulations take effect under  
19 AS 44.62 (Administrative Procedure Act), but not before the effective date of the respective  
20 statutory changes.

21 \* Sec. 28. The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the  
24 heading of AS 47.55 from "Pioneers' Home" to "Alaska Pioneers' Home and Alaska Veterans'  
25 Home."

26 \* Sec. 29. Section 27 of this Act takes effect immediately under AS 01.10.070(c).

27 \* Sec. 30. Except as provided in sec. 29 of this Act, this Act takes effect July 1, 2004.

**REPORTED OUT**  
**FISCAL NOTE**  
**MAR 26 2004**  
**SENATE FINANCE COMMITTEE**

STATE OF ALASKA  
 2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: SB 301  
 ( S ) Publish Date: 2/6/04  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction)  
 Title RELATING TO PIONEER AND VETERAN HOMES

RDU Alaskan Pioneer Homes  
 Component Pioneers Homes

Sponsor RULES COMMITTEE

Requester \_\_\_\_\_ Component No. 2671

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel		2.0	2.0	2.0	2.0	2.0
Contractual		24.0	52.8	58.1	63.9	70.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>26.0</b>	<b>54.8</b>	<b>60.1</b>	<b>65.9</b>	<b>72.3</b>

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

<b>CHANGE IN REVENUES (1002)</b>		73.0	289.7	401.8	514.0	570.0
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts		73.7	289.7	401.8	514.0	570.0
1003 GF Match						
1004 GF		( 47.7)	( 234.9)	( 341.7)	( 448.1)	( 497.7)
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health						
Other(Specify Type- do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>26.0</b>	<b>54.8</b>	<b>60.1</b>	<b>65.9</b>	<b>72.3</b>

Estimate of any current year (FY2004) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill will provide authority to serve veterans through identification of one or more homes within the Pioneer Homes system as a Veteran Home consistent with US Veterans Administration requirements. Once certified by the VA, the state can bill the VA \$26.95 per day for services provided to qualified residents of the Veteran Home. VA receipts are anticipated for the Palmer Pioneer Home certification sometime in FY2006. The Governor's FY2005 capital budget includes a request to convert the Palmer Pioneers' Homes from its current use to a State Veteran Home (SVH). The conversion is estimated to cost \$3.5 million in FY2005, of which 35% is state match.  
 (Continued on next page)

Prepared by: David W. Williams Phone 465-5737  
 Division Alaska Longevity Programs Date/Time 01/12/2004  
 Approved by: Joel S. Gilbertson, Commissioner Date 01/12/2004  
 Agency Department of Health and Social Services

**COMMITTEE COPY**

FISCAL NOTE  
FN 1

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. SB 301

ANALYSIS CONTINUATION

Operating cost analysis:

Expenditures

Additional FY06 operating costs include \$2.0 in travel for attendance at federal meetings, national VA meetings and similar negotiations (based on one out-of-state trip a year). The contractual line includes \$24.0 for a transportation contract for Veterans' doctor visits for one-half year. The second year is a full year with growth according to the number of veterans. The assumption for growth is one new veteran resident each month. Veterans must go to the VA doctor in Anchorage.

Revenues:

The VA rate for domicillary care is \$26.95 per day. Federal approval of the funding is dependent upon the state funding its portion of required construction/remodeling costs. With legislative approval of the capital request, it is anticipated that construction could begin in September 2004. The VA anticipates 450 days for construction with an anticipated opening date mid-year FY2006.

Estimate of VA Payments	FY06	FY07	FY08	FY09	FY10
Veterans Per Day Rate	\$26.95	\$26.95	\$26.95	\$26.95	\$26.95
Veteran residents who qualify for VA domicillary care	16	31	43	55	61
Days of care in month	180	365	365	365	365
Utilization/Vacancy	95%	95%	95%	95%	95%
VA Revenue in Fiscal Year	\$73,735	\$289,692	\$401,831	\$513,970	\$570,040



## Health, Education, and Social Services Committee Alaska State Senate

### Letter of Intent

It is the intent of the legislature in passing Senate Bill 301 relating to an Alaskan Veterans Home that the Department of Health and Social Services will convert the Palmer Pioneers' Home to be a state veterans' home approved by the US Department of Veterans Affairs. After the conversion, the department should continue to maintain a Pioneers' Home waiting list for the Palmer Home. It is the intent of the legislature that the home will provide 75% of the resident capacity for veterans and 25% of the resident capacity for others selected from the Pioneer's Home waiting list.

The legislature encourages the department to actively work to fill all vacant beds using the current Pioneers' Home waiting list prior to certification of the Home as a state veterans' home.

COMMITTEE COPY

SENATE FINANCE  
COMMITTEE  
Amendment Number: #1  
Bill Number: SB301  
Sponsor: Green Date: 3/26/04  
Logged In By: Robin

ADOPTED 3/26  
SB301Q  
3/26/4

AMENDMENT

OFFERED IN THE SENATE FINANCE BY: Sen. Green  
TO:

- 1 Page 6, line 31, following "at":
- 2 Insert "Sitka and at other"

SENATE FINANCE COMMITTEE  
03 126 / 2009 COMMITTEE ACTION

Bill Number	SB 301		
Amendment	#1		
Motion	to ADOP T		
<u>Motion by</u>	Green		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Stevens			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Senator Olson			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	ADOP T E D		

go back to original wording ok'd per Sheila & Jean

(10)] The address of a voter as it appears on an official voter registration card is presumptive evidence of the person's voting residence. This presumption is negated only by the voter's [VOTER] notifying the director in writing of a change of voting residence.

\* Sec. 3. AS 17.37.070(6) is amended to read:

(c) "facility monitored by the department or the Department of Administration" means an institution, building, office, or home operated by the department or the Department of Administration, funded by the department or the Department of Administration, under contract with the department or the Department of Administration, inspected by the department or the Department of Administration, designated by the department or the Department of Administration, or licensed by the department or the Department of Administration, for the care of

(A) juveniles; for the purposes of this subparagraph, "institution" includes a foster home and a group home, and a juvenile detention facility, a juvenile detention home, a juvenile work camp, and a treatment facility, as those terms are defined in AS 47.14.990;

(B) the elderly; for the purposes of this subparagraph, "institution" includes

(i) an assisted living home as defined in AS 47.33.990; and

(ii) the Alaska [A] Pioneers' Home or the Alaska Veterans' Home, operated under AS 47.55;

(C) the mentally ill; for the purposes of this subparagraph, "institution" includes a designated treatment facility and an evaluation facility, as those terms are defined in AS 47.30.915;

\* Sec. 4. AS 18.07.111(8) is amended to read:

(8) "health care facility" means a private, municipal, state, or federal hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney disease treatment center (including freestanding hemodialysis units), intermediate care facility, and ambulatory surgical facility; the term excludes

(A) the [AN] Alaska Pioneers' Home and the Alaska Veterans' Home administered by the Department of Health and Social

1            Services [ADMINISTRATION] under [AS 44.21.02(9) AND] AS 47.55: and

2                            (B) the offices of private physicians or dentists whether in  
3            individual or group practice;

4   \* Sec. 5. AS 18.35.300 is amended to read:

5            **Sec. 18.35.300. Places where smoking is regulated.** Smoking in any form is  
6            a nuisance and a public health hazard and is prohibited in the following vehicles and  
7            indoor places, except as allowed under AS 18.35.310:

8                            (1) a vehicle of public transportation and a waiting, baggage, or  
9            boarding area for a vehicle of public transportation, including a bus, ferry vessel, train,  
10            limousine for hire, taxicab, or scheduled interstate or intrastate aircraft flight when  
11            consistent with federal law;

12                           (2) a place of employment, a building or other structure, or a portion of  
13            them, owned, leased, or operated by the state or a political subdivision of the state,  
14            including an office, library, museum, theater, concert hall, convention hall,  
15            gymnasium, swimming pool, or other place of entertainment or recreation;

16                           (3) a public or private postsecondary educational institution or adult  
17            day care facility;

18                           (4) a courtroom or jury deliberation room;

19                           (5) a room, chamber, or other place under the control of the state  
20            senate or state house of representatives while a public meeting or public assembly is  
21            not in progress;

22                           (6) a nursing home, rest home, or other residential health care  
23            institution or facility, or a public or private office or facility that is engaged primarily  
24            in providing mental health services;

25                           (7) a food service establishment that has a seating capacity of at least  
26            50 persons;

27                           (8) a grocery store or other store maintained primarily for the retail  
28            sale of food products;

29                           (9) a place of employment in which the owner, manager, proprietor, or  
30            other person who has control of the premises posts a sign stating that smoking is  
31            prohibited by law;

SENATE FINANCE  
COMMITTEE  
Amendment Number: # 2  
Bill Number: SB 301  
Sponsor: Green Date: 3/26/04  
Logged In By: Robin

ADOPTED 3/26/04  
SB301/Q  
3/26/04

AMENDMENT

OFFERED IN THE SENATE FINANCE BY Sen. Green  
TO:

- 1 Page 8, line 7, following "space":
- 2 Insert ", up to 50 percent of the total floor space in a home,"

SENATE FINANCE COMMITTEE  
3 126/2004 COMMITTEE ACTION

Bill Number	SB 301		
Amendment	# 2		
Motion	to ADOPT		
<u>Motion by</u>	Green		
<u>Objection by</u>	Willken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stevens			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	ADOPTED		

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