

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2937

According to a summary of public comment taken during review of the proposed amendments, landowners and timber operators indicated that impacts from the proposed standards would be limited due to Region II's topography, existing vegetation patterns, and relatively low timber values.

According to the minutes, Dean Kvasnikoff, of Ninilchik Native Association Inc., said the proposals wouldn't make a big difference on the peninsula. Corporation logging practices already included staying well back from streams.

Kvasnikoff noted that the time frame for reforestation under FRPA was a bigger issue. The division plans to initiate a review of Region II and III reforestation standards this fall.

Bob Shavelson, director of Cook Inlet Keeper, said the revisions sounded like they were taking a good direction.

"As climate change takes hold in Alaska and the temperatures in our salmon streams continues to increase, it is important to control the stresses and impacts that we can.

"We may not be able to control the temperature, but we can control the effects of development along our fish streams," he said.

Briefing: HB 420/SBB 262
Region II Forest Practices amendments
DEPARTMENT OF NATURAL RESOURCES



Alaska Department of
**NATURAL
RESOURCES**

February 2006

DIVISION OF FORESTRY

Overview. HB 420/SB 262 would amend the Alaska Forest Resources and Practices Act (FRPA) for the boreal forest in southcentral Alaska (Region II). The bill sets standards for forestry activities in riparian areas and ensures that Region II standards

- support healthy timber and fishing industries,
- protect fish habitat and water quality,
- incorporate the best available science,
- maintain "one-stop shopping" for compliance with federal laws.

The bill is the product of two years of work by an array of interests. There is broad support for the consensus in the bill. This process was convened at the request of the Board of Forestry, and completes a statewide review of the FRPA riparian standards that was begun in 1996. Updates to the standards for Region I were adopted in 1999, and for Region III in 2003.

Applicability. FRPA Region II covers the boreal forest in southcentral Alaska. This includes the Mat-Su valley, the interior part of the Copper River Basin, the west side of the Kenai Peninsula, and the upper Cook Inlet area (see map). In Region II, FRPA applies to commercial forestry operations on all land ownerships where the operation borders surface waters or a riparian area, or where the operation is more than 40 acres.

Background. This bill is based on work by an interdisciplinary Science & Technical Committee. The Committee reviewed relevant research and published an annotated bibliography of the results, drafted a stream classification system, and recommended changes to current standards. Committee members had expertise in fisheries, forestry, hydrology, and soils. Members included scientists and experienced field staff from state and federal resource agencies, the University of Alaska, and the private sector.

An Implementation Group then discussed how to implement the recommendations of the Science and Technical Committee in a manner that works on the ground, and drafted language for changes to the FRPA and regulations. Group members represented affected interests, including municipalities, trust land managers, private forest owners, the timber and fishing industries, environmental groups, and the departments of Natural Resources, Fish and Game, and Environmental Conservation.

The Board of Forestry reviewed and concurred with the recommendations from the Implementation Group. The Board added findings to emphasize that this proposal is tailored specifically to the conditions in Region II, and does not revise the standards for Regions I and III. With this addition, the Board endorsed the bill recommended by the Implementation Group. All recommendations from the Science & Technical Committee, the Implementation Group, and the Board of Forestry were consensus recommendations.

Summary of key provisions. The bill defines four types of water bodies that have anadromous or high-value resident fish, and sets riparian standards for each type as follows:

- **Types II-A and II-B.** On large, dynamic, non-glacial rivers and dynamic, glacial rivers: a no-cut buffer of 150'. The buffer widens to 225' on actively eroding outer bends not constrained by terraces on Type II-A rivers, and to 325' on such bends on Type II-B rivers.
- **Type II-C.** On smaller dynamic, non-glacial streams, streams and rivers with stable channels, and lakes: a 100' no-cut buffer.
- **Type II-D.** On small streams (<3' wide): a no-cut buffer of 50'.

Buffers are designed to prevent erosion and sedimentation, provide large woody debris for fish habitat, and provide a long-term supply of the ten habitat characteristics identified by FRPA. Compared to the other regions, these buffers are wider on the big, dynamic rivers and narrower on small streams. The Science & Technical Committee and Implementation Group identified several reasons for the differences in Region II.

- 1) In Region II, there are many more large, dynamic rivers that overlap with areas where harvesting is likely to occur.
- 2) The fisheries values in Region II are very high, and the timber values relatively low. A disproportionate share of sport fishing occurs in Region II, and it takes place primarily in freshwater areas that are adjacent to forested areas.
- 3) The volume of timber per acre in Region II is lower than in Regions I or III, and more of the timber is in hardwoods. This means that it takes a bigger area to get the same amount of large woody debris into the river system, and the wood that gets into the river decays faster.
- 4) There are many small, anadromous streams in forested areas of Region II. Buffers are needed to keep sediment out of these streams, but sediment can be controlled with narrower buffers.

Relation to federal laws. FRPA provides the timber industry with "one-stop shopping" for compliance with federal Clean Water Act and Coastal Zone Management Act compliance. Forest operations that are consistent with FRPA are deemed consistent with these laws. However, final approval of FRPA as the state's forestry management measures for the Coastal Zone Reauthorization Act depends on adoption of buffer standards on private land in Region II. This bill accomplishes that in a manner that is workable for the timber industry.

Public review. Public review to date include input from the Implementation Group, public hearings at the Board of Forestry, and contacts with major forest landowners, including Native corporations, the University and Mental Health trusts, and the Mat-Su and Kenai Boroughs.

Minutes of all Science & Technical Committee and Implementation Group meetings, and the recommendations from these groups were also sent to a mailing list that included 158 names of Native corporations and tribal groups, municipalities, timber businesses, resource agencies, trust land managers, groups representing environmental, recreation, fishing and development interests, and individuals.

Comments from landowners indicated that impacts from the proposed standards are limited due to the Region II topography and existing vegetation patterns, relatively low timber values, and current harvesting practices which typically incorporate voluntary buffers.

For more information, contact:

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 907-269-8473



Fact Sheet:

Alaska Forest Resources and Practices Act

December 8, 2005

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY

Background. The Alaska Forest Resources and Practices Act (FRPA, AS 41.17) governs how timber harvesting, reforestation, and timber access occur on state, private, and municipal land. Forest management standards on federal land must also meet or exceed the standards for state land established by the Act. The FRPA was originally adopted in 1978. Major revisions were adopted in 1990 to address riparian management on private land, enhance notification procedures for timber operations, reorganize the Board of Forestry, and establish enforcement procedures. Additional changes to the stream classification system and riparian management standards were adopted in 1999 for Region I (coastal Alaska) and in 2003 for Region III (interior Alaska). Review of the standards for Region II (southcentral Alaska) is in progress.

Purpose. The Act balances economic concerns for the timber industry with water quality and habitat protection needs. It protects fish habitat and water quality, ensures prompt reforestation, and helps the timber and fishing industries provide long-term jobs. This framework provides certainty and credibility for landowners, operators, and the public.

Key provisions. The Act

- Establishes a process for landowners to notify the state before beginning commercial timber operations. This is not a permit process. Tight timeframes are set for agency review of notifications, and timber operations can proceed if the agencies do not respond within the set time frame.
- Sets standards for forest management along waterbodies, including buffers, and provides flexibility to harvest valuable trees within buffers when it can be done without harming fish habitat or water quality. Harvest within buffers requires agency approval. Buffers are tailored to the conditions in each region.
- Sets standards to prevent erosion from roads and harvest areas into waterbodies.
- Requires reforestation except where land will be converted to another use, or where the harvest area is significantly composed of dead or dying trees.
- Provides one-stop shopping for forest operation compliance with state and federal clean water and coastal management standards.
- Authorizes DOF to enforce the Act through directives, stop work orders, and citations for violations.

Best management practices (BMPs). Regulations adopted under 11 AAC 95 also establish BMPs for road construction and maintenance, and for timber harvesting. These standards are designed to prevent adverse impacts to fish habitat and water quality from timber operations.

Regions and applicability. Alaska is divided into three forest practices regions. Region I covers coastal forests from Southeast Alaska through Prince William Sound, the eastern Kenai Peninsula, the Kodiak Archipelago, and parts of the Alaska Peninsula. Region II is the boreal forest south of the Alaska Range. Region III is the boreal forest in Interior Alaska.

The FRPA applies to commercial timber operations on forestland, including harvesting, roading, site preparation, thinning, and slash treatment operations on forestland. Operations must comply with the FRPA if they are larger than 10 acres in Region I or larger than 40 acres in Region II. In Region III, it applies to operations larger than 40 acres for forest landowners that own more than 160 acres in total. All commercial harvest operations that encompass or border surface waters or a riparian area also must comply with the Act, regardless of their size.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

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April 28, 2006

Senator Lyda Green, Co-Chair
Senate Finance Committee
Alaska State Legislature
State Capitol, Room 516
Juneau, AK 99801

RE: HB 420 – Relating to riparian protection standards for forest resources and practices; and providing for an effective date.

Dear Senator Green,

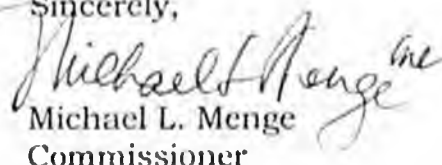
This is a request for your consideration to schedule HB 420 before the Senate Finance Committee at your earliest convenience. This bill passed the House unanimously on April 11, 2006 and has the full support of stakeholders and regulators who drafted this 'fully-vetted' consensus bill. The companion bill, SB 262 was heard in Senate Resources Committee on February 5, 2006, and HB 420 passed out of that committee today with unanimous support.

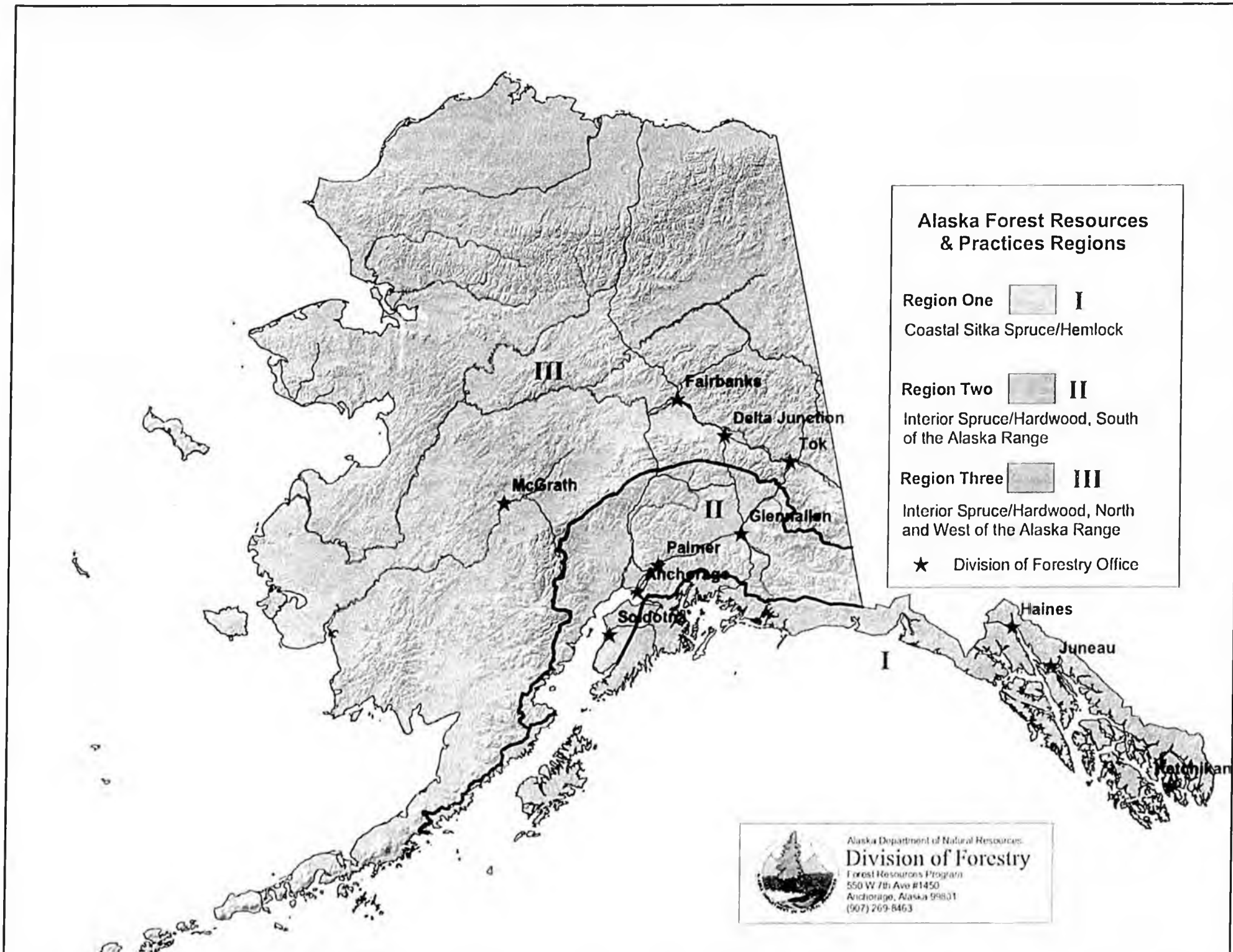

HB 420 was heard in the House Fisheries Committee on February 15, 2006 with unanimous 'do pass' recommendations, and a minor amendment to correct a technical drafting error – the omission of a specific statutory reference in Sec. 3. AS 41.17.118 (a), was inserted and created a (FSH) committee substitute.

HB 420 would complete the task of setting statewide riparian protection standards that began with the 1990 changes to the Forest Resources and Practices Act (AS 41.17). Standards for Region I, the coastal forest, and Region III, the Interior, have already been established in statute and regulation. Now, the work has been finished to set standards for Region II, Southcentral, Alaska.

Again, Senator Green, thank you for your consideration to schedule this bill. Please contact Melanie Lesh at 465-4730 if you have any questions regarding the bill, she will work with department staff and many supporters including the Resource Development Council to provide testimony in support of the bill. You may also contact Marty Freeman, the Forest Resources Program Manager at 269-8473.

Sincerely,


Michael L. Menge
Commissioner

Alaska Department of Natural Resources
Division of Forestry
 Forest Resources Program
 550 W 7th Ave #1450
 Anchorage, Alaska 99501
 (907) 269-8463

FRPA Water body class definitions

Region I	Region II	Region III
<p>Applicability: Types I-A, I-B, I-C, and I-D apply to private lands. Waterbodies on state and other public land are classified only as waters that do or do not have anadromous or high value resident fish</p>	<p>Applicability: Waterbody classes apply to all ownerships. Buffers are the same for public and private land, but only public land has special management zones.</p>	<p>Applicability: Waterbody classes apply to all ownerships. However, buffer widths for Type III-A and III-B waters are different on public and private land.</p>
<p>Type I-A An anadromous water body that (A) is a stream or river of any size having an average gradient of eight percent or less, with banks held in place by vegetation, channels that are not incised, and a substrate composed of rubble, gravel, sand, or silt; (B) consists of wetlands and lakes, including their outlets; and (C) is an estuarine area delimited by the presence of salt-tolerant vegetation</p>	<p>Type II-A (A) a nonglacial stream greater than 50 feet wide that has anadromous or high value resident fish and that has an unconfined and dynamic channel; and (B) a water body that typically has point bars, islands, scour planes, active or recent side channels, and areas of obvious bank erosion;</p>	<p>Type III-A A water body that is a (A) nonglacial high value resident fish water body greater than three feet in width at the ordinary high water mark; (B) nonglacial anadromous water body; or (C) backwater slough;</p>
<p>Type I-B An anadromous water body that does not meet the definition of a Type I-A water body</p>	<p>Type II-B A glacial stream that has anadromous or high value resident fish and that is not a glacial Type II-C water body;</p>	<p>Type III-B A glacial high value resident fish water body or a glacial anadromous water body; "Type III-B water body" does not include a glacial backwater slough</p>
<p>Type I-C A water body that is not anadromous, that is a tributary to a Type I-A or Type I-B water body, and that has a gradient of 12 percent or less.</p>	<p>Type II-C A water body that has anadromous or high value resident fish that (A) is a nonglacial water body >3' wide and ≤50' wide at ordinary high water mark that has an unconfined and dynamic channel; (B) is a nonglacial water body >3' wide at ordinary high water mark that has a confined channel; (C) is a reach of the Kenai River, Kasilof River, or Lake Fork Crescent River >3' wide at ordinary high water mark; or (D) is a lake or pond;</p>	<p>Type III-C A nonglacial high value resident fish water body that is less than or equal to three feet in width at the ordinary high water mark and that does not contain anadromous fish.</p>
<p>Type I-D in Region I, a water body that is not anadromous, that is tributary to a Type I-A or Type I-B water body, and that has a</p>	<p>Type II-D A nonglacial stream or a reach of the Kenai River, Kasilof River, or Lake Fork Crescent River that is less than or equal to three feet wide at ordinary high water</p>	

gradient greater than 12 percent

mark that has anadromous or high value resident fish.

"Anadromous water body" means the portion of a fresh water body or estuarine area that

(A) is cataloged under AS 41.14.040 as important for anadromous fish; or

(B) is not cataloged under AS 41.14.870 as important for anadromous fish but has been determined by the deputy commissioner to contain or exhibit evidence of anadromous fish in which event the anadromous portion of the stream or waterway extends up to the first point of physical blockage;

"high value resident fish" means resident fish populations that are used for recreational, personal use, commercial, or subsistence purposes

HB 420/SB 262 – Forest practices riparian standards in Region II Sectional Analysis

This bill would complete the task of setting statewide riparian protection standards -- stream buffers -- for commercial forest operations. This process began with the 1990 changes to the Forest Resources and Practices Act ("FRPA", AS 41.17), and included updates to the riparian



standards for Region I (coastal forests) in 1999, and for Region III (interior forests) in 2003.

The existing FRPA standards for Region II (southcentral forests, see blue on map) were adopted in 1990 as interim standards pending scientific review. That review was completed in 2004. The recommendations were reviewed by the Board of Forestry and affected interests in 2005, and incorporated into the FRPA amendments in this bill.

Section 1 – Findings. Section 1 comprises legislative findings clarifying the intent to protect fish habitat and water quality during forest operations, and emphasizing the unique characteristics of the forests and fisheries of Southcentral Alaska. The standards in this bill are tailored specifically to conditions in Region II. Compared to other regions, Region II has an abundance of both large, dynamic rivers and narrow anadromous streams in forested areas, high fisheries values, low timber volumes per acre, and a higher proportion of hardwood timber (cottonwood, birch, and aspen).

Section 2: AS 41.17.116 -- Private land. Section 2 sets riparian standards for commercial forest operations on private land along water bodies with anadromous or high-value resident fish in Region II. For large, nonglacial, and most glacial rivers, no-harvest buffers would extend 150 feet from the water body, with a widened buffer along outer bends subject to erosion. Most nonglacial waters, lakes, and glacial rivers with relatively stable banks would have 100-foot no-harvest buffers, similar to the existing interim standard. Small streams would have 50-foot no-harvest buffers. Buffers are designed to prevent erosion and sedimentation and provide large woody debris for fish habitat. Buffers also apply to estuarine areas along anadromous or high-value resident fish streams, using the same width that applies to the adjacent stream type. Forested estuaries are rare in Region II.

Section 3: AS 41.17.118 – State land. Section 3 sets riparian standards for state land along water bodies with anadromous or high-value resident fish in Region II. The no-harvest buffers would be the same as those set for private land. In addition, on state land only, harvesting from the landward boundary of the no-harvest buffer to 300 feet from the water body may occur but must be consistent with the maintenance or enhancement of wildlife habitat.

Section 4: AS 41.17.119 -- Other public land. Section 4 sets riparian standards for other public land along water bodies with anadromous or high-value resident fish in Region II. The no-harvest buffers are the same as those applicable to state and private land.

Section 5: AS 41.17.950 (21) – “Riparian area” definition. This section amends the definition of "riparian area" to be consistent with the riparian standards set forth in sections 2, 3, and 4.

Section 6: AS 41.17.950 (34) – (41) – Other definitions. This section adds definitions for new terms used in the riparian standards in sections 3, 4, and 5. The definitions cover the four new stream categories (Types II-A, II-B, II-C, and II-D), and clarify the terms "outer bend subject to erosion," "point bar," "terrace," and "terrace top break".

Section 7 – Effective date. This section sets the effective date as July 1, 2006.



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

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February 15, 2006

Senator Tom Wagoner
 Chair, Senate Resources Committee
 Alaska State Legislature
 State Capitol
 Juneau, AK 99801-1182

Re: Senate Bill 262 — Forest Resources & Practices Standards

Dear Senator Wagoner:

On behalf of the Resource Development Council for Alaska, Inc. (RDC), I am writing to express our support for Senate Bill 262. SB 262 amends the Alaska Forest Resources and Practices Act (FRPA) in order to update the state standards for forestry activities in riparian areas. The bill is the product of a two-year consensus process managed by the Board of Forestry and it completes a statewide review of the FRPA riparian standards that began in 1996.

RDC is a private, non-profit business association comprised of individuals and leading companies from Alaska's oil and gas, mining, forest products, fisheries and tourism industries. The association's membership also includes construction companies, local communities, Native corporations, organized labor and a wide range of industry-support firms. RDC works to grow Alaska's economy through the responsible development of the state's natural resources.

SB 262 creates standards for forestry activities in the riparian areas of southcentral Alaska (Region II) that protect water quality and fish habitat while supporting healthy timber and fishing industries. The bill incorporates the best available science and maintains the state's compliance with relevant federal statutes. Most importantly, it has been vetted by government, university and private sector scientists, as well as affected stakeholders, including local governments, private forest owners, timber and fishing industry representatives, environmental groups and the state resource agencies.

SB 262 assigns distinct riparian standards for four different types of water bodies with anadromous or high-value resident fish. The no-cut buffers defined for Region II differ from the other regions in that they are wider on large, dynamic rivers and narrower on small streams. The Board of Forestry's Science & Technical Committee and Implementation Group identified a number of sound reasons for these differences, including the fact that within Region II there are significantly more large rivers that overlap with areas where harvesting is likely to take place.

The Board of Forestry has a proven track record in developing consensus language to amend the FRPA, having successfully crafted the riparian standards for Region I in 1999 and for Region III in 2003. RDC strongly supports the Board of Forestry's work on these issues and we believe they warrant the endorsement of the Legislature. Please move SB 262 forward without amendment.

Thank you for considering RDC's position on this important piece of legislation.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
For Alaska, Inc.

A handwritten signature in cursive script that reads "Tadd Owens". The signature is written in dark ink and is positioned above the typed name and title.

Tadd Owens
Executive Director

Legislation would change timber practices in Southcentral Alaska

By HAL SPENCE

Peninsula Clarion

Timber harvesting rules defining buffers meant to protect habitat around Kenai Peninsula rivers and streams would be stiffened under bills now before the Alaska Legislature.

But while some no-cut buffer zones would be widened and others reduced, the primary change would be to require those strict no-cut buffers on private, as well as public land. Nevertheless, the proposed changes are not expected to significantly alter current commercial forestry practices on the Kenai Peninsula, according to harvesters.

The buffer zone amendments are proposed in House Bill 420 and its companion Senate Bill 262, currently in the House Rules Committee and Senate Re-sources Committee respectively.

No-cut buffers 100 feet wide already are required on public lands. The proposed changes generally would widen those buffers around large rivers to 150 feet, keep the 100-foot buffer about smaller rivers, and reduce them to 50 feet along small streams less than three feet wide.

Currently, private lands within 100 feet of rivers and streams have been regulated as special management areas, where tree cutting is permitted if operations are designed to protect habitat and water quality. Here there are no no-cut zones.

That would change under the proposed revisions. If approved, the same no-cut terms applied to public lands would also apply on private property.

Passage of one of the bills would complete a process begun in 1990 to adopt statewide riparian protection standards (stream buffers) for commercial forest operations under the Forest Resources and Practices Act. Revised standards already have been adopted in two of the state's three FRPA regions: Region I, which covers much of southern coastal Alaska, including the east side of the Kenai Peninsula, and Region III, which includes Interior Alaska.

Only Region II, which stretches across much of Southcentral Alaska south of Denali, including western Kenai Peninsula from Homer north to Turnagain Arm and the west side of Cook Inlet, has yet to be revised. That is the purpose behind the two bills.

"The nutshell version is that around large, dynamic rivers, both glacial and nonglacial, we're proposing a wider basic buffer (no-cut zone) of 150 feet. That would apply both on public and private land," said Marty Freeman, with the State Division of Forestry.

Gone would be the special management areas on private land under which harvesting currently can occur near to rivers and streams.

The general purpose behind all the buffers is to protect fish habitat. The high value of fish coupled with the relatively low value of timber in Region II has led to the proposed restrictions.

In many cases, the wider buffers are meant to prevent too much erosion and sedimentation. Along some rivers, however, the aim is to protect natural erosive forces necessary to ensure enough dead wood reaches the rivers to create sloughs and side channels that provide fish with resting and spawning habitat, she said.

"The way to get big logs into big rivers is to have the banks erode," she said. "They need a lot of wood, so you need a wider buffer."

The Alaska Forest Resources and Practices Act is meant to provide the commercial timber industry with a "one-stop shopping" system for complying with the federal Clean Water Act and Coastal Zone Management Act. Forest operations that are consistent with the FRPA are deemed consistent with those acts.

According to the division, final approval of the FRPA as the state's forestry management measure for the Coastal Zone Reauthorization Act depends on adoption of buffer standards on private land in Region II. The two bills now before lawmakers are meant to accomplish that.

According to Freeman, the bills are the culmination of more than two years of work by scientists, agencies, municipalities (Matanuska-Susitna and Kenai Peninsula boroughs included), Native corporations, representatives of the timber industry and other stakeholders, including the University of Alaska and Mental Health Trusts.

"It got a quite broad review," Freeman said.

According to a summary of public comment taken during review of the proposed amendments, landowners and timber operators indicated that impacts from the proposed standards would be limited due to Region II's topography, existing vegetation patterns, and relatively low timber values.

According to the minutes, Dean Kvasnikoff, of Ninilchik Native Association Inc., said the proposals wouldn't make a big difference on the peninsula. Corporation logging practices already included staying well back from streams.

Kvasnikoff noted that the time frame for reforestation under FRPA was a bigger issue. The division plans to initiate a review of Region II and III reforestation standards this fall.

Bob Shavelson, director of Cook Inlet Keeper, said the revisions sounded like they were taking a good direction.

"As climate change takes hold in Alaska and the temperatures in our salmon streams continues to increase, it is important to control the stresses and impacts that we can.

"We may not be able to control the temperature, but we can control the effects of development along our fish streams," he said.

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December 8, 2005

DEPARTMENT OF NATURAL RESOURCES

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February 2006

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- incorporate the best available science,
- maintain "one-stop shopping" for compliance with federal laws.

The bill is the product of two years of work by an array of interests. There is broad support for the consensus in the bill. This process was convened at the request of the Board of Forestry, and completes a statewide review of the FRPA riparian standards that was begun in 1996. Updates to the standards for Region I were adopted in 1999, and for Region III in 2003.

Applicability. FRPA Region II covers the boreal forest in southcentral Alaska. This includes the Mat-Su valley, the interior part of the Copper River Basin, the west side of the Kenai Peninsula, and the upper Cook Inlet area (see map). In Region II, FRPA applies to commercial forestry operations on all land ownerships where the operation borders surface waters or a riparian area, or where the operation is more than 40 acres.

Background. This bill is based on work by an interdisciplinary Science & Technical Committee. The Committee reviewed relevant research and published an annotated bibliography of the results, drafted a stream classification system, and recommended changes to current standards. Committee members had expertise in fisheries, forestry, hydrology, and soils. Members included scientists and experienced field staff from state and federal resource agencies, the University of Alaska, and the private sector.

An Implementation Group then discussed how to implement the recommendations of the Science and Technical Committee in a manner that works on the ground, and drafted language for changes to the FRPA and regulations. Group members represented affected interests, including municipalities, trust land managers, private forest owners, the timber and fishing industries, environmental groups, and the departments of Natural Resources, Fish and Game, and Environmental Conservation.

The Board of Forestry reviewed and concurred with the recommendations from the Implementation Group. The Board added findings to emphasize that this proposal is tailored specifically to the conditions in Region II, and does not revise the standards for Regions I and III. With this addition, the Board endorsed the bill recommended by the Implementation Group. All recommendations from the Science & Technical Committee, the Implementation Group, and the Board of Forestry were consensus recommendations.

Summary of key provisions. The bill defines four types of water bodies that have anadromous or high-value resident fish, and sets riparian standards for each type as follows:

- **Types II-A and II-B.** On large, dynamic, non-glacial rivers and dynamic, glacial rivers: a no-cut buffer of 150'. The buffer widens to 225' on actively eroding outer bends not constrained by terraces on Type II-A rivers, and to 325' on such bends on Type II-B rivers.
- **Type II-C.** On smaller dynamic, non-glacial streams, streams and rivers with stable channels, and lakes: a 100' no-cut buffer.
- **Type II-D.** On small streams (<3' wide): a no-cut buffer of 50'.

Buffers are designed to prevent erosion and sedimentation, provide large woody debris for fish habitat, and provide a long-term supply of the ten habitat characteristics identified by FRPA. Compared to the other regions, these buffers are wider on the big, dynamic rivers and narrower on small streams. The Science & Technical Committee and Implementation Group identified several reasons for the differences in Region II.

- 1) In Region II, there are many more large, dynamic rivers that overlap with areas where harvesting is likely to occur.
- 2) The fisheries values in Region II are very high, and the timber values relatively low. A disproportionate share of sport fishing occurs in Region II, and it takes place primarily in freshwater areas that are adjacent to forested areas.
- 3) The volume of timber per acre in Region II is lower than in Regions I or III, and more of the timber is in hardwoods. This means that it takes a bigger area to get the same amount of large woody debris into the river system, and the wood that gets into the river decays faster.
- 4) There are many small, anadromous streams in forested areas of Region II. Buffers are needed to keep sediment out of these streams, but sediment can be controlled with narrower buffers.

Relation to federal laws. FRPA provides the timber industry with "one-stop shopping" for compliance with federal Clean Water Act and Coastal Zone Management Act compliance. Forest operations that are consistent with FRPA are deemed consistent with these laws. However, final approval of FRPA as the state's forestry management measures for the Coastal Zone Reauthorization Act depends on adoption of buffer standards on private land in Region II. This bill accomplishes that in a manner that is workable for the timber industry.

Public review. Public review to date include input from the Implementation Group, public hearings at the Board of Forestry, and contacts with major forest landowners, including Native corporations, the University and Mental Health trusts, and the Mat-Su and Kenai Boroughs.

Minutes of all Science & Technical Committee and Implementation Group meetings, and the recommendations from these groups were also sent to a mailing list that included 158 names of Native corporations and tribal groups, municipalities, timber businesses, resource agencies, trust land managers, groups representing environmental, recreation, fishing and development interests, and individuals.

Comments from landowners indicated that impacts from the proposed standards are limited due to the Region II topography and existing vegetation patterns, relatively low timber values, and current harvesting practices which typically incorporate voluntary buffers.

For more information, contact:

Marty Freeman
 DNR Division of Forestry
 550 W. 7th Avenue/Anchorage, AK 99501
 907-269-8473

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GOVERNOR
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January 31, 2006

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to riparian protection standards for forest resources and practices.

The bill would complete the task of setting statewide riparian protection standards that began with the 1990 changes to the Forest Resources and Practices Act (AS 41.17). Standards for Region I, the coastal forest, and Region III, the Interior, have already been established. Now, the work has been finished to set standards for Region II, Southcentral.

Section 1 of the bill sets out legislative findings supporting the standards. Such findings are helpful to managers and the regulated community in understanding the underlying purposes and intent for the statutory language. These findings recognize the unique nature of Southcentral Alaska forests and forest uses.

Section 2 of the bill would set the new standards for private land in Southcentral Alaska. For large, nonglacial, and for most glacial, anadromous fish-bearing water bodies, timber harvest may not occur within 150 feet of the water body and wider protections are set for outer bends subject to erosion. Other types of water bodies receive either 100-foot or 50-foot no-harvest buffers, depending on stream characteristics.

Section 3 of the bill would set the new standards for state land in Southcentral Alaska. The no-harvest buffers would be the same as those set for private land. This section also would clarify that adjacent estuarine areas are subject to the same protections as are the fresh water bodies. Also, this section would establish that for all four types of fish-bearing water bodies in

The Honorable John Harris
January 31, 2006
Page 2

the region, harvest may occur from the landward boundary of the no-harvest buffer to 300 feet from the water body only insofar as it is consistent with the maintenance or enhancement of wildlife habitat.

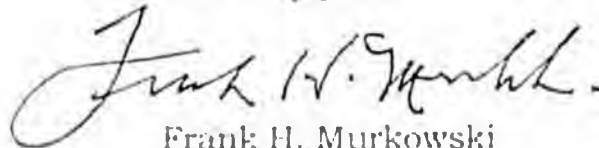
Section 4 of the bill would set new standards for other public land in Southcentral Alaska. These standards are the same as those applicable to state land, except that there is no requirement that harvest from the boundary out to 300 feet be consistent with maintenance or enhancement of wildlife habitat.

In section 5 of the bill, the term "riparian area" would be amended to reflect the new standards for Region II. Section 6 of the bill would add new definitions necessary to understand the standards. Thus, the four new stream categories (Types II-A, II-B, II-C, and II-D) are explained. Finally, the terms "outer bend subject to erosion," "point bar," "terrace," and "terrace top break" all would be defined.

Section 7 of the bill would set the effective date as July 1, 2006.

The bill would complete the fish habitat riparian protection standards that are one of the primary purposes underlying the Forest Resources and Practices Act. I urge your prompt and favorable action on this measure.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosure

SENATE COMMITTEE REPORT

DATE: 4/12/06

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/28/06

Resources Committee considered CS FOR HOUSE BILL NO. 420(FSH)

HB 420 FOREST RESOURCES & PRACTICES STANDARDS

"An Act relating to riparian protection standards for forest resources and practices; and providing for an effective date."

and recommends:

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

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DNR	1/23			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
Elton <i>[Signature]</i>			✓	
Dyson <i>[Signature]</i>	✓			
Stedman <i>[Signature]</i>	✓			
B. Steens <i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

Weyner

HB

421



Alaska Permanent Fund Corporation

PO Box 115500 Juneau, AK 99811-5500
Tel (907) 465-2047 • Fax (907) 463-1573
www.apfc.org

February 14, 2006

Senator Gary Wilken
State Capitol, Room 518
Juneau, Alaska 99801-1182

Dear Senator Wilken:

I have outlined below additional information to support the Corporation's request for \$550,000 in the fast track supplemental, to retain the services of an independent investment consultant/financial advisor. The advisor will have experience in education, analysis and valuation to assist in evaluating an investment in the potential Alaska gas pipeline. Our objective is to make sure the Board of Trustees are prepared to evaluate a proposal as soon as it is made available to us.

- 1) This request is from the Corporation and would be funded by corporate receipts (investment income), the same as our operating budget.
- 2) The amount of \$550,000 is a rough estimate. Given that we do not know the details or timing of an agreement to build a gas line it is difficult to estimate. The actual amount expended in FY06 could be considerably less if just the education portion is completed this year.
- 3) Our FY06 operating budget contained approximately \$300,000 for pre-investment due diligence work. This amount has already been expended to research and make an offer to buy a co-controlling interest in a large real estate housing business. If this investment is not completed the due-diligence costs are charged to the operating budget. The real estate deal is expected to close by the end of March. However, there are some outstanding issues that could preclude closing. To be assured funds are available to enter into a contract for a gas line advisor, an early supplemental appropriation is needed. If the funds are not expended the dollars would remain in the Permanent Fund.

Thanks for your consideration of this request.

Sincerely

Michael J. Burns
Chief Executive Officer

FY2006 FAST TRACK SUPPLEMENTALS
HB 421 / SB 264

2-14-05

	A	B	C	D	E	F	G	H	I	J	K
	Sec. No.	Amd. Date	Amd No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
1	1			Admin	Capital	Begin telephone system replacement and stabilization phase 1 project in FY2006 The FY2007 capital project request of \$15 million for this project will be reduced by \$1 million. The state is facing serious issues on the existing nearly 13-year-old Private Branch Exchange (PBX) telephone switches in Juneau, Anchorage and Fairbanks that support approximately 15,000 telephones in those locations. The current provider will not support the system after April 1, 2005.			1,000.0	Information Services Fund	1,000.0
2	2(a)			Commerce	Office of Economic Development	The Office of Economic Development is hosting an event at the Boston International Seafood Show that promotes the uniqueness of wild Alaska seafood on March 13, 2005.			75.0	Statutory Designated Program Receipts Supported Services	75.0
3	2(b)			Commerce	Alaska Seafood Marketing Institute	Increase RSS match for the Alaska Seafood Marketing Institute's export marketing program, which received a federal increase in January 2006. Advance notification to public relations contractors is required, therefore March approval is requested.			395.0	Statutory Designated Program Receipts Supported Services	395.0
4	3(a)			Corrections	Out-of-State Contractual	Timely payments are essential in complying with contractual requirements agreed upon for housing Alaska inmates. The increased prison population has mandated the department obtain additional beds out-of-state, up to a total of 1,000 prisoners by year-end. The current contract is written for 760 beds while the department estimates a need for 850 beds by March and 1,000 beds by June 30.	1,168.7				1,168.7
5	3(b)			Corrections	Inmate Health Care	The department is estimating that they will potentially run out of funds available to pay contract and medical providers as early as March, 2006. The additional funding is needed to meet the medical obligations for the aging and increased prison population and for the sharp increase in the number of inmates needing dialysis, cancer treatment, and treatment for other life-threatening conditions, along with the increased cost for providing those medical services.	2,600.0				2,600.0
6	3(c)			Corrections	Inmate Health Care	Funding is needed to pay three contractors and several fee-for-service providers for services rendered prior to 6/30/2005. These providers have not been paid and are charging interest for non payment. Prompt payment would avoid further interest charges.	755.0				755.0
7	4(a)			Fund Transfer	Disaster Relief Fund	Funding needed for: 1) 2002 Kenai Peninsula Flood shortfall \$160.3 2) 2004 Bering Strait Sea Storm - additional federal project funding was approved Jan. 2006, 25% match is required \$839.6 3) 2005 Spring Flood Funding (Emmonak, Alakanuk and McGrath) shortfall \$553.7 4) 2005 West Coast Storm (Nome area) \$1,599.5 5) 2005 Southeast Storm \$1,084.6 6) Less the unobligated balance of \$93.9 in the fund The department will be unable to continue meeting disaster related expenditures until the supplemental is approved.	4,143.8				4,143.8
8	4(b)			Fund Transfer	Information Services Fund	Capitalize Information Services Fund for FY05 implementation of the telephone system replacement and stabilization phase 1 capital project.	1,000.0				1,000.0
9	5			Law	Civil Division, Dep'ty Attorney General's Office	Judgments and Claims - actual amount is \$2,621,985.48	2,622.0				2,622.0
10	6(a) - (c)			Natural Resources	Parks Management	Parks revenue collection shortfall. Need by March 31, 2005 to maintain the planned service levels.	350.0		(350.0)	Receipt Supported Services	0.0
11	6(a) - (c)			Natural Resources	State Historic Preservation Program	Change structure to put Parks components into Resource RDU to help maintain the planned service levels in State Parks. Need by March 31, 2005.					0.0
12	6(b) - (c)			Natural Resources	Parks Management	Change structure to put Parks components into Resource RDU to help maintain the planned service levels in State Parks. Need by March 31, 2005.					0.0
13	6(a) - (c)			Natural Resources	Parks and Recreation Access	Change structure to put Parks components into Resource RDU to help maintain the planned service levels in State Parks. Need by March 31, 2005.					0.0
14	7			Public Safety	Council on Domestic Violence and Sexual Assault	This request would provide funding to maintain the operation of the Kotzebue domestic violence shelter. Program previously funded by a HSS grant that has since been determined to be an allowable use of federal funds.	350.0				350.0
15	8			Revenue	APEG Operations	Gasoline Investment Determination Costs			550.0	Perm Funds Corp Receipts	550.0
16	9(a)			Transportation	Capital - Highways and Aviation	Whittier Tunnel portal jet fan replacement due to catastrophic failure of the #2 portal jet fan. Jet fans are necessary to operate the Whittier Tunnel as they force the carbon monoxide gases out of the tunnel. There are two fans at each end of the tunnel - one is for normal use and the other is required backup during repair or failure of the other. Without this second fan, the tunnel must be closed to accommodate any maintenance of the remaining fan.	504.2				504.2
17	9(b)			Transportation	Capital - Airport Improvement Program Appropriation	The Airport Improvement Program appropriation will increase by \$15,100.0 from \$470,100.1 to \$485,200.1 because of the increases in the allocations listed below.					0.0
18	9(c)			Transportation	Capital - Airport Improvement Program Allocation	Amended Cordova Airport Runway Safety Area Expansion		3,000.0			3,000.0
19	9(d)			Transportation	Capital - Airport Improvement Program Allocation	New Unalakleet Airport Paving		12,100.0			12,100.0
20	9(e)			Transportation	Capital - Surface Transportation Program	The Surface Transportation Program appropriation will increase by \$15,000.0 from \$373,601.7 to \$388,601.7 because of the increase in the allocation listed below.					0.0

FY2006 FAST TRACK SUPPLEMENTALS

HB 421 / SB 264

	A	B	C	D	E	F	G	H	I	J	K
	Sec. No.	Amd. Date	Amd No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
1											
22	9(i)			Transportation	Capital - Surface Transportation Program Allocation	Amended National Highway System (NHS) and Non-NHS Pavement and Bridge		15,000.0			15,000.0
23	10				Lapse of Appropriations	Refurbishment					
24	11				Effective date of March 15, 2006						
25						Fast Track Supplemental Total	13,493.7	30,100.0	1,670.0		45,263.7
26	Amendments:										
27		02/05/05	DOT A	Transportation	Capital - Airport Improvement Program Appropriation	The Airport Improvement Program appropriation will increase by \$1,500.0 from \$485,250.1 to \$486,750.1 because of the increase in the allocation listed below.					
28		02/06/05	DOT A	Transportation	Capital - Airport Improvement Program Allocation	Amended Kotzebue Sand Building Early approval of this project will allow a contract to be awarded in April 2006. Then there will be time for the contractor to order, obtain and barge the materials before freeze up in 2006 to avoid losing a season of construction time.		1,500.0			1,500.0
29		02/14/06	Law A	Law	Civil Division, Deputy Attorney General's Office	Judgments and Claims - actual amount has increased by \$647,050.25 from \$2,621,985.48 to \$3,269,035.73	647.1				
30						Amended Fast Track Supplemental Total	14,140.8	31,600.0	1,670.0		46,761.7

Change Record Detail With Description

Department of Law

Scenario: FY2006 Supplemental Fast Track -Governor (5137)

Decision: None

Component: Deputy Attorney General's Office (2205)

Category: None

RDU: Civil Division (35)

Subcategory: None

New GF Revenue:

Title: AMD: Judgment and Claims as of February 14, 2006

New Other Revenue:

Short Title:

Brief Description: FY06 Judgments and Claims

	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants & Benefits	Misc./Debt Service	Positions		
										PFT	PPT	NP
	Suppl	647.1	0.0	0.0	647.1	0.0	0.0	0.0	0.0	0	0	0
1004 Gen Fund	647.1											
This amendment adds \$647,050.25 to the original FY2006 Judgments and Claims request of \$2,621,985.48, bringing the new FY2006 total for Judgments and Claims that are finalized as of February 14, 2006 to \$3,269,035.73.												
	Totals	647.1	0.0	0.0	647.1	0.0	0.0	0.0	0.0	0	0	0

AMU 7

Department of Law

FY2006 Judgments & Claims - General Funds

Case #	Case Name	Description	Date	Amount	Interest	Total
1	Michael Heiser itf Gail and Robert Bryant Gail and Robert Bryant v. State	Settlement in personal injury case involving Ketchikan Pioneers' Home	11/28/2005	\$32,000.00	\$815.41	\$32,815.41
2	Beard Stacey Trueb and Jacobsen itf Alfred E. Gordon III Gordon III v. State, AMHS	Settlement in personal injury case involving slip and fall on the M/V Taku	11/2/2005	\$52,000.00	\$1,168.22	\$53,168.22
3	Kevin Morford Green and Republican Moderate Party v. State, Div. of Elections	Fees and costs in challenge to constitutionality of Alaska's modified closed primary	4/22/2004	\$14,920.68	\$1,477.76	\$16,398.44
4	Kevin Morford State v. Green Party	Fees and costs in challenge to constitutionality of Alaska's modified closed primary - Supreme Court	9/14/2005	\$12,055.15	\$439.68	\$12,494.83
5	Mark D. Osterman Law Office Bartlett v. State, CSSD	Fees and costs in issue under Uniform Interstate Family Support Act regarding one enforceable child support order	12/16/2005	\$1,553.45	\$31.92	\$1,585.37
6	Valley Hospital Association ITMO Valley Hospital Medicaid Rate Appeal	Attorneys fees in challenge to DHSS regulations in setting Medicaid rates for 2001	8/9/2005 and 2/9/2003	\$9,225.20	\$2,201.08	\$11,426.28
7	Michael Jungreis Sean Halloran v. State, Div. of Elections	Attorneys fees in lawsuit involving lack of nonpartisan primary ballot upon which to vote solely for initiative measures.	9/27/2005	\$33,175.50	\$1,136.15	\$34,311.65
8	Robinson & Associates itf Dean Anderson and Michael Grunert Dean Anderson & Michael Grunert v. State, Board of Fish	Fees and costs in challenge to a 2002 regulation establishing an opportunity for a cooperative commercial salmon fishery in the Chignik Management Area	7/19/2005	\$7,676.66	\$354.91	\$8,031.57
9	Robinson & Associates itf Michael Grunert Michael Grunert v. State, Board of Fish	Fees and costs in challenge to a 2002 regulation establishing an opportunity for a cooperative commercial salmon fishery in the Chignik Management Area - Supreme Court	6/2/2005	\$1,708.49	\$105.92	\$1,814.41
10	Law Offices of Ted Stepovich itf John F. Sponaugle John F. Sponaugle v. State, Corrections	Settlement in medical malpractice in inmate case involving ileostomy	5/5/2005	\$215,000.00	\$12,701.20	\$227,701.20

Department of Law

FY2006 Judgments & Claims - General Funds

#	Case Name	Description	Date	Amount	Interest	Total
11	Winner & Associates itf for A.V.; B.S.; & K.F. Jane Doe 1; Jane Doe 2; and Jane Doe 3 v. Daniel Scott and Dept of Public Safety	Settlement in personal injury case related to criminal sexual assault and kidnapping charges brought against Trooper Daniel L. Scott	5/27/2005	\$425,000.00	\$23,505.99	\$448,505.99
12	Law Offices of Calvin P. Vance itf plaintiff A. A. v. State, DHSS, DFYS	Settlement in negligence claim brought by minor who shot and killed his father	9/7/2005	\$227,000.00	\$8,551.37	\$235,551.37
13	Winfree Law Office Doe v. State, Department of Public Safety	Public Interest Litigant's award in sex offender registration case	9/27/2005	\$43,133.90	\$1,181.75	\$44,315.65
14	Lee Holen and Robert Hammond Robert Hammond v. State, DOTPF	Settlement in whistleblower	1/9/2006	\$164,127.80	\$3,417.53	\$167,545.33
15	Cooke Roosa & Valcarce itf for J.J. & A.S. Jane Does 1 and 2 v. Department of Public Safety and Daniel Scott	Personal injury case related to criminal sexual assault and kidnapping charges brought against Trooper Daniel L. Scott	5/27/2005	\$365,500.00	\$20,215.15	\$385,715.15
16	Cooke Roosa & Valcarce itf Earlene Wise Earlene Wise v. State	Settlement in personal injury case related to state employee colliding with a parked vehicle in Aniak	1/13/2006	\$50,000.00	\$1,039.73	\$51,039.73
17	Michael Hough Trust Account Fellows Fisheries v. State	Settlement in loss of catch case involving the collision of a fishing vessel with a patrol vessel		\$94,500.00	\$0.00	\$94,500.00
18	Disability Rights Association Alexander Noon v. State Board of Education	Settlement in a challenge to the application of the high school exit exam to children with disabilities	10/3/2005	\$284,497.42	\$6,003.13	\$290,500.55
19	Law Offices of Don Clocksin itf Robert Bacolas Bacolas v. State	Wrongful Discharge	7/8/2005	\$427,103.93	\$20,550.72	\$447,654.65
20	Darryl Thompson John Doe v. Tandeske	Challenge to DNA sample required of sex offenders	6/9/2005	\$36,765.00	\$1,024.18	\$37,789.18
21	Darryl Thompson John Doe III v. Tandeske	Challenge to sex offender registration	4/26/2005	\$18,531.00	\$589.50	\$19,120.50
22	Patrick McKay and Insurance Annuity to be determined Bush v. Kromer and State	Settlement of personal injury case involving a child bitten by a dog while in foster care	1/11/2006	\$350,000.00	\$7,436.30	\$357,436.30
23	Beard Stacey Trueb & Jacobsen itf Donald Darnell Darnell v. State, AMHS	Settlement in personal injury case involving slip & fall and other injuries sustained by seaman on the M/V Tustemena	2/1/2006	\$280,250.00	\$4,624.13	\$284,874.13

Department of Law

FY2006 Judgments & Claims - General Funds

Case #	Case Name	Description	Date	Amount	Interest	Total
24	Nicholas Kittleson Le-Sueur v. State	Fees and costs in a Human Rights discrimination complaint brought against Alaska Regional Hospital	12/12/2005	\$4,641.27	\$98.55	\$4,739.82
						\$3,269,035.73

HB

426

HFIN

FILE

HOUSE COMMITTEE REPC 7

(11)

Date Referred to Committee: April 12, 2006

FURTHER REFERRALS:

Date of Committee Action: 4/18/06

The FINANCE Committee considered:

HB 426

HOUSE BILL NO. 426

MEDICAL ASSISTANCE FOR PERSONS UNDER 21

"An Act relating to medical assistance eligibility and coverage for persons under 21 years of age."

Recommends it be replaced with HCS or CS for HB 426 (FIN)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DEG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 CA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DHSS	1			✓
DHSS	2	✓		
DHSS	3	✓		
DHSS	4	✓		
DHSS	5	✓		

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	FOSTER	X			
	Weyhrauch	X			
	Kelly	X		✓	
	Stocize			✓	
	MOSES			X	
Chair:	Meyer	X		X	
Chair:	Chenault			X	

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE ELIGIBILITY AND COVERAGE FOR PERSONS UNDER 21 RDU Behavioral Health
 Component: Behavioral Health Administration

Sponsor: COGHILL

Requester: HOUSE (FIN)

Component No. 2665

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

Section 11 of this bill requires the Department to prepare a report of recommendations for changes for residential psychiatric and substance abuse treatment programs that address reduction of medical assistance expenditures, enhancement of parental responsibility, and maximization of third-party resources.

This provision will have a zero fiscal cost under the assumption that the new Bring the Kids Home Project Manager position in the FY07 proposed budget is funded. The report would be written by the new position.

This is the only section of the bill that affects the Division of Behavioral Health. The eligibility groups affected (recipients of long-term care services and minors applying for themselves) by this bill generally do not use mental health services.

Prepared by: Christy Willer, Director Phone 269-3410
 Division: Behavioral Health Services Date/Time 04/12/2006
 Approved by: Karleen Jackson, Commissioner Date 04/12/2006
 Agency: Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS
UNDER 21

RDU: Public Assistance

Component: Public Assistance Field Svcs

Sponsor: COGHILL

Requester: HOUSE (FIN)

Component No.: 236

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	40.6	162.4	162.4	162.4	162.4	162.4
Travel						
Contractual	4.3	17.0	17.0	17.0	17.0	17.0
Supplies	6.8	5.0	5.0	5.0	5.0	5.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	51.7	184.4	184.4	184.4	184.4	184.4

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

1002 Federal Receipts	25.9	92.2	92.2	92.2	92.2	92.2
1003 GF Match	25.8	92.2	92.2	92.2	92.2	92.2
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	51.7	184.4	184.4	184.4	184.4	184.4

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill contains provisions that change medical assistance eligibility in AS 47.07.020, which will increase the workload of Eligibility Technicians.

Section 7, subsection (j-k) limits who may apply for medical assistance for a person under 18 years of age.

Section 7, subsection (l) requires that persons applying for medical assistance must enroll for Medicare if eligible.

These provisions increase workload by requiring Eligibility Technicians to spend more time with applicants searching for legal guardians or parents of minors, and assisting eligible persons to enroll in Medicare.

Prepared by: Kitty Farnham, Director
 Division: Public Assistance
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-5835
 Date/Time: 04/12/2006
 Date: 04/12/2006

**STATE OF ALASKA
2006 LEGISLATIVE SESSION**

ANALYSIS CONTINUATION

MINORS APPLYING FOR MEDICAID

Currently, any adult may apply on behalf of a minor and minors may apply for themselves. Section 7, subsections (j) and (k) provide that only an adult who has a legal or vested interest may apply for Medicaid on behalf of a child under age 18. The department must make reasonable efforts to contact the parent or legal guardian before granting a waiver of consent. If a waiver of consent is granted, the department must document the reason for the waiver in the child's medical assistance record. Under this provision, Division staff will have to spend more time with applicants to contact and obtain consent of the parent or legal guardian or document a waiver.

Total Annual Costs = \$110.6 thousand for an additional 1.5 positions plus an extra \$4.4 thousand in FY07

Assumptions:

- ~Approximately 3800 minor children apply for Medicaid each year.
- ~An additional 45 minutes per application, on average, will be needed for eligibility staff to contact a minor applicant's parent(s) or legal guardian to obtain consent (or make a reasonable attempt to obtain consent) for the application, or to gather enough information needed to waive consent.
- ~3800 applications/per year x 45 minutes = 171,000 minutes per year or 2,850 hours
- ~Eligibility staff work 162 hours/month x 12 = 1944 hours/year
- ~2850 hours per year/1944 hours per technician = 1.5 workers
- ~Average personnel costs for an Eligibility Technician II is \$64,944/year
- ~One-time cost for computers and software in FY2007 = \$2,200/position
- ~Annual costs for office space, phones & supplies = \$8,800/position
- ~1 Eligibility Technician II full time = \$64,944 + 1 Eligibility Technician II part-time = \$32,472 = \$97,416/year
- ~Supplies & contractual costs for 1.5 positions = \$15,400 in FY07; \$13,200/year FY08 and beyond

ENROLLMENT IN MEDICARE

Currently, enrollment in Medicare is optional for medical assistance applicants. Section 7, subsection (l) requires that a person who is eligible must first enroll in the Medicare program before they are eligible to receive benefits through Medicaid. Under this provision Division staff will have to spend more time with applicants to evaluate Medicare eligibility and monitor their continued enrollment in Medicare.

Total Annual Costs = \$73.7 thousand for an additional 1 position plus an extra \$2.2 thousand in FY07

Assumptions:

- ~On average, 1800 individuals per month appear eligible for, and not enrolled in Medicare
- ~Eligibility for Medicare will be assessed at initial application and during the 6-month eligibility review
- ~Eligibility staff will need an additional 60 minutes per month to evaluate an individual's eligibility for Medicare, and to require and monitor enrollment as a condition of eligibility for Medicaid
- ~1800 individuals per month x 60 mins/case = 1800 hours/12 months = 150 hours/month

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

- ~Average personnel costs for an Eligibility Tech II is \$64,944/year
- ~One-time cost for computers and software in FY2007 = \$2,200/position
- ~Annual costs for office space, phones & supplies = \$8,800/position
- ~1 Eligibility Technician II full time = \$64,944/year
- ~Supplies & contractual costs for 1 position = \$15,400 in FY07; \$13,200/year FY08 and beyond

Other Assumptions:

- ~The bill takes effect July 1, 2006; however, implementation would be delayed until the 4th Quarter while waiting for approval of a Medicaid State Plan Amendment. For this reason, FY07 is 25% of a full year.
- ~The federal matching rate is 50%.
- ~The other sections of this bill will not substantially increase the workload and do not need a fiscal note in this component.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS RDU Senior and Disabilities Svcs
UNDER 21
 Component: Senior/Disabilities Medicaid Svc

Sponsor: COGHILL
 Requester: HOUSE (FIN)

Component No. 2662

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(83.1)	(415.0)	(500.0)	(500.0)	(500.0)	(500.0)
Miscellaneous						
TOTAL OPERATING	(83.1)	(415.0)	(500.0)	(500.0)	(500.0)	(500.0)
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(47.8)	(220.9)	(252.2)	(250.0)	(250.0)	(250.0)
1003 GF Match	(35.3)	(194.1)	(247.8)	(250.0)	(250.0)	(250.0)
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(83.1)	(415.0)	(500.0)	(500.0)	(500.0)	(500.0)

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill contains provisions that bring Alaska Statute into line with the deficit Reduction Act of 2005 including many mandatory rule changes related to determining financial eligibility for long-term-care related Medicaid.

Sec. 6 makes it more difficult to use an annuity to shelter assets when trying to qualify for Medicaid.

Sec. 7, subsection (m) allows the State to impose stricter penalties for transferring assets at below-market value.

Sec. 7, subsection (n) allows that a home valued over \$500,000 can be a resource in determining eligibility. Sec. 8 clarifies when a person on a home and community based waiver may be terminated from the waiver.

These provisions will reduce Medicaid costs by reducing the number of persons eligible for Medicaid, most of whom are eligible for the Older Alaskans waiver program.

Prepared by: Rod Moline, Director
 Division: Senior and Disabilities Services
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-3819
 Date/Time: 04/12/2006
 Date: 04/12/2006

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

MEDICAID-QUALIFYING ANNUITIES

Currently, various kinds of trusts and annuities can be used to shelter assets when trying to qualify for Medicaid. The federal law cited in the bill places more restrictions on annuities used for Medicaid purposes than exist now. Section 6 limits the annuities that do not affect eligibility to only those that meet the requirements of the federal law. This bill also gives the State the right to recover the balance of an annuity should a recipient die before the annuity has fully paid out.

Annual savings: \$0. This provision will not have a fiscal impact as it is not included in the budget now.

TRANSFER OF ASSETS AT BELOW-MARKET VALUE

Generally speaking, if a person applying for or receiving Medicaid benefits has transferred an asset at below-market value, that person may be subject to a period of ineligibility. Currently, the State can impose a penalty period beginning with the date of transfer. Section 7, subsection (m) allows the penalty period to begin with the date of application for Medicaid. This will eliminate almost all instances when an individual escapes serving a penalty period because the penalty period has already run its course before the Medicaid application is submitted. This would mostly affect applicant's seeking long-term care coverage including long-term care services under the Older Alaskans waiver program.

Annual savings to Medicaid = \$250.0 thousand

Assumptions:

- The number of applicants penalized in past 6 months = 6, which is 12 annually
- Average number of months penalized = 5
- Estimated total number of months eligibility is delayed annually due to penalties = 60
- Applicants would have been eligible for the OA waiver program
- Average annual cost per OA waiver recipient = \$50,000, which is \$4,167 per month
- The savings will ramp up over a 3-year period

HOMES AS A RESOURCE

Normally, a person's home is an exempt resource for Medicaid eligibility purposes. Section 7, subsection (n) puts a limit on the value of a home that would still qualify for this exemption. In effect, an individual will be ineligible for Medicaid if their home has an equity value for more than \$500,000, unless they sell it, borrowed against it, or take out a reverse mortgage to reduce the equity below \$500,000. This would mostly affect applicants seeking long-term care coverage including long-term care services under the OA Waiver program.

Annual savings to Medicaid = \$250.0 thousand

Assumptions:

- Currently number of long-term care recipients known to have a home valued over \$500,000 = 0
- Don't have any data on number of applicants with homes valued over \$500,000
- Estimated number of applicants per year with homes valued over \$500,000 who would now be ineligible = 5
- Applicants would have been eligible for the OA waiver program
- Average annual cost per OA waiver recipient = \$50,000

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

**TERMINATING WAIVER
SERVICES**

This section is in response to a class action lawsuit filed against the Division regarding how individuals from the Older Alaskans and Adults with Physical Disabilities waivers are assessed and terminated from the program. Prior to the litigation the Division only assessed individuals based on the current circumstances and level of client function. Section 8 says that a person who is eligible for a home and community based waiver may be terminated from the waiver only if the recipient scores below the eligibility standard on the assessment and an independent qualified health care professional certifies that the recipient's condition has materially improved from the previous assessment.

Annual savings: \$0. This provision will not have a fiscal impact as it is not included in the budget now. It will be a cost avoidance.

Other Assumptions:

~The bill takes effect July 1, 2006; however, implementation would be delayed until the 4th Quarter while waiting for approval of a Medicaid State Plan Amendment. For this reason, FY2007 is 25% of a full year.

~The federal matching rate is the estimated SFY quarterly average FMAP for the applicable year: FY07=57.58%, FY08=53.22%, FY09=50.44%; FY10 to FY12=50.00%.

~The other sections of this bill do not need a fiscal note in this component.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS RDU Health Care Services
UNDER 21

Component Medicaid Services

Sponsor COGHILL

Requester HOUSE (FIN)

Component No. 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(2,734.9)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)
Miscellaneous						
TOTAL OPERATING	(2,734.9)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)

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

1002 Federal Receipts	(1,574.8)	(5,792.8)	(5,490.2)	(5,442.3)	(5,442.3)	(5,442.3)
1003 GF Match	(1,160.1)	(5,091.8)	(5,394.4)	(5,442.3)	(5,442.3)	(5,442.3)
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(2,734.9)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill contains provisions that would help to ensure repayment to the Medicaid program for cases involving Medicaid recipients receiving settlements or judgments from third party payers and would change medical assistance eligibility for minors and persons eligible for Medicare. These provisions will reduce Medicaid expenditures by increasing recoveries and reducing the number of persons eligible for Medicaid.

Sections 1-5 and 9-10 contain provisions that will result in more subrogation cases and increased recoveries for the Medicaid program.

Section 7, subsection (j-k) limits who may apply for medical assistance for a person under 18 years of age;

Section 7, subsection (l) requires that persons applying for medical assistance must enroll for Medicare if eligible.

Prepared by: Dwayne Peoples, Director
 Division: Health Care Services
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-5830
 Date/Time 04/12/2006
 Date 04/12/2006

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

SUBROGATION AND RECOVERIES

Sections 1-5 and 9-10 of this bill requires insurers to coordinate benefits with other insurers (including Medicaid); clarifies that the department may take the role of the recipient when the department has paid medical claims on behalf of the recipient and the recipient may be in a position to recover funds that are partially attributable to the injury and medical care received; clarifies that the Department may take the place of the recipient and pursue recovery if the recipient chooses not to pursue a liable 3rd party; and requires that the state be notified of cases and settlements from third party payers. Section 5 provides the state the ability to attach Permanent Fund dividends of recipients in cases where the state is not notified of a Medicaid recipient's recovery and has no other recourse to recover amounts paid. Currently the Department is authorized to garnish a recipient's PFD to recover General Relief, Adult Public Assistance, food stamps and Alaska Temporary Assistance Program overpayments, but not Medicaid. The department needs the same authority to recoup overpayments from Medicaid recipients who have received Medicaid coverage but shouldn't have, including those who choose to receive continued Medicaid benefits pending a fair hearing, but who ultimately lose the fair hearing. One of the most efficient and least intrusive recovery methods has been to garnish the recipient's PFD.

Annual savings to Medicaid: \$1,010.2

Assumptions:

- Additional staff resources from Department of Law applied to subrogation cases
- Annual subrogation recoveries of \$1M are doubled
- Increased amount of subrogation recoveries = \$1,000,0
- Number of cases with a successful garnishment of PFD annually = 12
- Average amount collected by garnishing PFD = \$850
- Annual amount collected by garnishing PFD = \$10.2

MINORS APPLYING FOR MEDICAID

Currently, any adult may apply on behalf of a minor and minors may apply for themselves. Section 7, subsections (j) and (k) provide that only an adult who has a legal or vested interest may apply for Medicaid on behalf of a child under age 18. The department must make reasonable efforts to contact the parent or legal guardian before granting a waiver of consent. If a waiver of consent is granted, the department must document the reason for the waiver in the child's medical assistance record. Under this provision, some applicants will not be eligible because either the adult refuses to enroll the minor or the additional income makes the minor ineligible.

Annual savings to Medicaid: \$334.4

Assumptions:

- Number of minor children who apply themselves for Medicaid each year = 3800
- 1% would be ineligible because the parent/guardian refuses to enroll = 38 minors
- 1% would be ineligible because the parent/guardian's income exceeds the income limits = 38 minors
- Average annual cost per minor = \$4,400

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

ENROLLMENT IN MEDICARE

Currently, enrollment in Medicare is optional for medical assistance applicants. Section 7, subsection (1) requires that a person who is eligible must first enroll in the Medicare program before they are eligible to receive benefits through Medicaid. In June, 2005, the Centers for Medicare and Medicaid Services (CMS) informally revised its policy and now allows states to require Medicare enrollment as a condition of eligibility for those who qualify for it. Most, but not all, seniors have enrolled in Medicare and adding this requirement would help the department maximize the 100% federal dollars available from Medicare for all Medicare eligible recipients. Medicare Part A would pay for some of the most expensive individual cases, including those with end-stage renal disease. Medicaid would continue to pay the premiums and co-payments for the lowest income Medicare recipients.

Annual savings to Medicaid: \$9,540.0

Assumptions:

- On average, 1800 individuals per year appear eligible for, and not enrolled in Medicare
- Total Average annual Medicaid benefits costs avoided per Medicare enrollee = \$6,500.00
- Annual amount of Medicaid benefit costs saved by requiring Medicare enrollment = \$11,700.0
($\$6,500 \times 1,800$)
- Savings are offset somewhat by the additional cost of premiums for Medicare recipients
- Weighted average monthly premium amount for Medicare = \$100 or \$1,200.00 p/year
- Increased annual costs for premium buy-in of persons required to enroll in Medicare = \$2,160.0
($\$1,200.00 \times 1800$)

Other Assumptions:

-The bill takes effect July 1, 2006; however, implementation would be delayed until the 4th Quarter while waiting for approval of a Medicaid State Plan Amendment. For this reason FY2007 is 25% of a full year's costs.

-The federal matching rate is the estimated SFY quarterly average FMAP for the applicable year: FY07 = 57.58%, FY08 = 53.22%, FY09 = 50.44%; FY10 to FY12 = 50.00%.

-The other sections of this bill do not need a fiscal note in this component.

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

SUBROGATION AND RECOVERIES

Sections 1-5 and 9-10 of this bill requires insurers to coordinate benefits with other insurers (including Medicaid); clarifies that the department may take the role of the recipient when the department has paid medical claims on behalf of the recipient and the recipient may be in a position to recover funds that are partially attributable to the injury and medical care received; clarifies that the Department may take the place of the recipient and pursue recovery if the recipient chooses not to pursue a liable 3rd party ; requires that the state be notified of cases and settlements from third party payers; and provides the state the ability to attach Permanent Fund dividends of recipients in cases where the state is not notified of a Medicaid recipient's recovery and has no other recourse to recover amounts paid.

These provisions will increase the caseload for Department of Law employees working in the subrogation area. Health Care Services currently has an RSA with the Department of Law for subrogation work. Health Care Services would expand the RSA by \$190.3 for additional Department of Law staff of 1 FTE attorney and 1 FTE law office assistant. With the additional staff, the Department of Law estimates subrogation recoveries could easily double.

Assumptions:

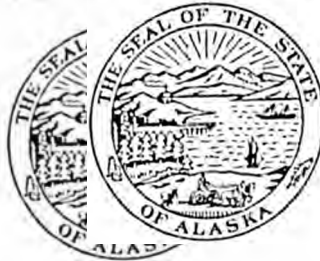
~Subrogation caseload doubles from \$1M per year to \$2M

~The bill takes effect July 1, 2006. The Department of Law intends to staff the new positions in July.

~The federal matching rate is 50%.

~The other sections of this bill will not substantially increase the workload and do not need a fiscal note in this component.

ALASKA STATE HOUSE OF REPRESENTATIVES



Contact:

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North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

HB 426 Medical Assistance Eligibility

Sectional for Version I

Section 1: This section requires insurers to coordinate benefits, provide information on their covered population, and provide for a three-year timely filing limit for the Medicaid program.

Medicaid often bills other insurance for claims paid by the program when other insurance is found to exist for the recipient. A common problem has been short timely filing requirements by other insurance, which has resulted in a failure to recover the claim.

Section 2: This section clarifies that if the department has paid medical claims on behalf of the recipient and the recipient may be in position to recover funds which are partially attributable to the injury and medical care received, the Department can act on behalf of the recipient to recover funds even when the recipients does not pursue a liable third-party.

Section 3: A common problem has been that settlements will occur without the department's knowledge and recovery against recipients or their attorney after the fact is near impossible. This section requires not only the recipient, but also the recipient's attorney, to notify the department of any case or action, which may involve the recovery of payments made, by the department on behalf of the recipient.

It also provides for remedies when the law is not followed. A lawyer will be held civilly liable for not notifying the department of recovery actions.

Another provision of this section requires the Attorney General to sign off on any settlement that involves a recipient of medical assistance requiring past medical expenses paid by the department in a case that results in a settlement to be reimbursed.

Finally, AS 47.05.07 is a provision, which disqualifies any new provision of the law related to subrogation, assignment, or lien conflicts, that is contrary to federal law.

Section 4. This section creates a priority for liens that places the State's claims from Medicaid reimbursements over all other liens except tax liens and attorneys fees and costs. This gives a preference to the Medicaid claims over health care providers who would otherwise collect from Medicaid and leave it to the State to get reimbursement.

Section 5. Benefit overpayments occur under several circumstances. One situation would be someone is found guilty of program abuse or fraud. The department would seek repayment. Another would be a person's coverage is discontinued and that person requests a fair hearing. Benefits continue until the fair hearing occurs. If the fair hearing finds in favor of the State, the department can seek repayment of those benefits provided during the period of time between notice of discontinuance and the fair hearing.

This section adds medical assistance to the list of programs for which the department may garnish a recipient's PFD in order to secure reimbursement for an overpayment. The state paid portion of the overpayment goes to the Dept. of Revenue, the federal portion to the federal government.

Section 6. The section brings Alaska Statute in line with the Deficit Reduction Act of 2005 in regards to transfer of assets and annuities. It allows person to transfer assets into a Miller Trust and treats annuities like a Miller Trust. This allows them to qualify for medical assistance without having to sell resources or gives them the option of selling large resources and invest the proceeds in an annuity. The income from the annuity is counted as income in determining eligibility, but the annuity is not counted as a resource. When assets are transferred or an annuity is established, the applicant agrees to grant the State a claim to the assets remaining at the death of the individual to reimburse the total medical assistance paid on behalf of the individual.

Section 7. Subsection (j) limits who may apply for Medicaid coverage for a person under 18 years of age. Only a parent or legal guardian, an adult caretaker relative who lives with the child, or an employee of the department who is applying for a child in state custody can apply for Medicaid coverage for the child.

(k) Provides that an unemancipated child may apply for Medicaid on the child's own behalf if the parent or legal guardian consents. The department may waive consent if the child expresses reasonable fear of the parent or guardian or if reasonable effort has been made to locate a parent or legal guardian but is unsuccessful in locating the parent or legal guardian.

(l) Requires Medicare enrollment for senior citizens and certain individuals with disabilities before they can qualify for benefits and services under the Medicaid program. The department believes this change will maximize the 100% federal dollars available from Medicare.

(m) When a person transfers an asset for less than fair market value, the State can impose a penalty period beginning only with the date of the less than fair market value transfer. This provision will allow the penalty period to start with the date of application for Medicaid.

(n) This covers another provision of the Deficit Reduction Act of 2005. Generally, a home is an exempt resource. The provision puts a limit on the value of a home that would still qualify for this exemption of \$500,000.

Section 8. This addresses a lawsuit filed against the state, which would require the State to determine the medical condition of a client on a Medicaid Waiver had "materially improved" before removing the client from the waiver. This section inserts the "materially improved" language into Alaska Statute.

Section 9. Repeals a subsection of AS 47.05.070 that allows the department to waive subrogation rights to all or part of the amount of medical assistance paid on behalf of a recipient of medical assistance in cases of undue hardship. The State would be mandated to pursue third party reimbursement.

Section 10. Sections 2 – 4 of HB 426 would apply to a cause of action related to subrogation, assignment, or lien by DHSS on or after the effective date.

Section 11. This section addresses concerns Representative Coghill has about the State paying for residential psychiatric treatment and substance abuse treatment for minors whose parents have medical insurance coverage. In discussing the issue with the department it became apparent the problem is not easily solved.

This section directs the department to review the authorization process with private insurance carriers and how they differ from the assessment process of the department. They are instructed to report back to the legislature no later than the first day of the next regular legislative session on how to maximize third-party coverage, enhance and clarify parental financial responsibility, and reduce medical assistance expenditures for residential psychiatric treatment and substance abuse treatment.

Section 12. Directs the department to, on enactment of HB 426, to apply for federal approval of a revised state plan reflecting the changes made in the bill.

Section 13. The bill would have the effective date of July 1, 2006 or the date of federal approval of revised plan, which is later.

adopted 4/18

24G-2
4/14/06
(1:57 PM)

A M E N D M E N T

OFFERED IN THE HOUSE FINANCE
COMMITTEE
TO: CSHB 426(HES)

BY Meyer by
Request

1 Page 7, line 26, through Page 8, line 30:

2 Delete all material and insert:

3 "Sec. 47.07.045. Home and community-based services. (a) The department
4 may provide home and community-based services under waivers in accordance with 42
5 U.S.C. 1396 - 1396p (Title XIX, Social Security Act), this chapter, and regulations
6 adopted under this chapter, if the department has received approval from the federal
7 government and the department has appropriations allocated for the purpose. To
8 supplement the standards in (b) of this section, the department shall establish in
9 regulation additional standards for eligibility and payment for the services.

10 (b) Before the department may terminate payment for services provided under (a)
11 of this section,

12 (1) the recipient must have had an annual assessment to determine
13 whether the recipient continues to meet the standards set in or under (a) of this section;

14 (2) the annual assessment must have been reviewed by an independent
15 qualified health care professional under contract with the department; for purposes of this
16 paragraph, "independent qualified health care professional" means

17 (A) for a waiver based on mental retardation or developmental
18 disability, a person who is qualified under 42 C.F.R. 483.430 as a mental
19 retardation professional;

20 (B) for other allowable waivers, a registered nurse licensed under
21 AS 08.68 who is qualified to assess children with complex medical conditions.

1 older Alaskans, or adults with physical disabilities, as applicable; and

2 (3) the annual assessment must find that the recipient's condition has
3 materially improved since the previous annual assessment; for purposes of this paragraph,
4 "materially improved" means that a recipient who previously qualified for a waiver for

5 (A) a child with complex medical conditions no longer requires
6 technology dependence or sustains life-threatening conditions, and is expected to
7 be treated in a skilled nursing facility for less than 30 days each year;

8 (B) mental retardation or developmental disability no longer needs
9 the level of care provided by an intermediate care facility for the mentally
10 retarded either because the qualifying diagnosis has changed or the recipient is
11 able to demonstrate the ability to function in a home setting without the need for
12 waiver services;

13 (C) an older Alaskan or adult with physical disabilities no longer
14 has a functional limitation or cognitive impairment that would result in the need
15 for nursing home placement, and the recipient is able to demonstrate the ability to
16 function in a home setting without the need for waiver services."
17

18 Page 9, following line 19:

19 Insert a new bill section to read:

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

22 **TRANSITION FOR SEC. 8 OF THIS ACT: REGULATIONS FOR HOME AND**
23 **COMMUNITY-BASED SERVICES.** To the extent that regulations on home and community-
24 based services that are in effect on the effective date of sec. 8 of this Act are not inconsistent
25 with the language and purposes of sec. 8 of this Act, those regulations remain in effect as valid
26 regulations implementing sec. 8 of this Act."
27

28 Renumber the following bill sections accordingly.
29

30 Page 9, line 24, following "under":

31 Insert "secs. 1 - 7 and 9 of"

1 Page 9, following line 26:

2 Insert a new bill section to read:

3 **** Sec. 14.** Sections 8 and 12 of this Act take effect immediately under AS 01.10.070(c)."

4

5 Renumber the remaining bill section accordingly.

6

7 Page 9, line 27:

8 Delete "This"

9 Insert "Except as provided in sec. 14 of this Act, this"

10

11 Delete "sec. 12"

12 Insert "sec. 13"

13

14 Page 9, line 29, following "by":

15 Insert "secs. 1 - 7 and 9 of"



Representative John Coghill
State Capitol, Room 204
Juneau, AK 99801-1182

HB 426 Medical Assistance Eligibility
Sponsor Statement

In times when federal dollars are diminishing, the legislature will have to review policies for providing for the public health. To better provide medical assistance to the truly needy, some eligibility requirements need to be changed.

As the department has put it, we are trying to address the "low hanging apples" that drain millions of dollars a year from a program that is growing in astounding increments.

HB 426 puts best practices to use by increasing third-party reimbursement, reducing Medicaid abuse and fraud, setting home equity limits, and implementing new federal requirements on the State for asset transfers and treating annuities like a Miller's Trust.

This bill also requires a person applying for medical assistance for a minor to be that person's parent or legal guardian, unless the parent or legal guardian is a minor. If a child is in state custody, an employee of the department can apply for coverage. The HSS committee substitute provides a waiver for unemancipated children who express fear of a parent or guardian, or whose parent or legal guardian cannot be located after a reasonable effort to do so by the department.

Currently, the unmarried father's income and resources are not considered in determining the eligibility of a pregnant woman for Medicaid. While the new CS eliminates income guidelines for unmarried fathers, we are exploring other ways to make the unmarried father financially responsible for the medical costs of a child.

HB 426 legislation repeals a statute that allowed the department to waive subrogation rights to third party reimbursements in cases of undue hardship. The department will now be required to pursue all third party reimbursements.

Section 8 of the bill addresses a lawsuit filed against the state, which would require the State to determine the medical condition of a client on a Medicaid Waiver had "materially improved" before removing the client from the waiver. HB 426 adds that requirement to Alaska Statute.

Lastly, this bill directs the department to report back to the legislature no later than the first day of the Twenty-Fifth Legislature on ways to reduce medical assistance expenditures for services received in residential psychiatric treatment centers by enhancing parental financial responsibilities and maximizing third-party resources available. Under current law a child could be placed in residential treatment and qualify for medical assistance after being out of the family home for thirty days, even though one or both parents have medical insurance.

4-18-06
 attached

CS HB 426 Medical Assistance for Persons Under 21
 Fiscal Note Summary by Section

4/12/06 version "S"

		FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	Assumptions
<i>Dollars in thousands</i>	% Federal	57.58%	53.22%	50.44%	50.00%	50.00%	50.00%	Federal % is Title XIX SFY average FMAP.
Total All	Total	(\$2,575.9)	(\$10,924.9)	(\$11,009.9)	(\$11,009.9)	(\$11,009.9)	(\$11,009.9)	Effective date of bill is July 1, 2006. Savings begin FY07 Q4 waiting for new regulations and approved SPA, plus normal lag in billing delays except for Law RSA.
	Federal	(\$1,501.6)	(\$5,826.2)	(\$5,555.1)	(\$5,504.9)	(\$5,504.9)	(\$5,504.9)	
	GF Match	(\$1,074.2)	(\$5,098.7)	(\$5,454.8)	(\$5,505.0)	(\$5,505.0)	(\$5,505.0)	
Sections 1-4, 9-10.	Total	(\$59.7)	(\$809.7)	(\$809.7)	(\$809.7)	(\$809.7)	(\$809.7)	amt projected in 2005=\$2,00.0; 50% recoveries increase=\$1,000.0. HCS admin costs for Dept Law RSA=\$190.3 @ 50% FMAP.
Subrogation of medical assistance overpayments	Federal	(\$48.8)	(\$437.1)	(\$409.3)	(\$404.8)	(\$404.8)	(\$404.8)	
	GF Match	(\$10.9)	(\$372.7)	(\$400.5)	(\$404.9)	(\$404.9)	(\$404.9)	
Section 5.	Total	(\$2.6)	(\$10.2)	(\$10.2)	(\$10.2)	(\$10.2)	(\$10.2)	# cases garnish PFD=12; avg amt collected=\$850.
Garnish Permanent Fund Dividend	Federal	(\$1.5)	(\$5.4)	(\$5.1)	(\$5.1)	(\$5.1)	(\$5.1)	
	GF Match	(\$1.1)	(\$4.8)	(\$5.1)	(\$5.1)	(\$5.1)	(\$5.1)	
Section 6.	Total	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	cost avoidance: not budgeted so no fiscal impact
Medicaid-qualifying annuities and transfer of assets	Federal	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
	GF Match	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Section 7, subsection (j-k).	Total	(\$52.5)	(\$223.7)	(\$223.7)	(\$223.7)	(\$223.7)	(\$223.7)	# self-enrolled < age 19=3800; 1% ineligible w/ parent's income=38; 1% parents refuse=38; avg annual cost per enrollee=\$4,400; DPA admin 1.5 FTE = \$110.6 @ 50% FMAP.
Parent or legal guardian must submit the application for a person under age 18	Federal	(\$32.6)	(\$122.7)	(\$113.4)	(\$111.9)	(\$111.9)	(\$111.9)	
	GF Match	(\$19.9)	(\$101.0)	(\$110.3)	(\$111.8)	(\$111.8)	(\$111.8)	
Section 7, subsection (l).	Total	(\$2,378.0)	(\$9,466.3)	(\$9,466.3)	(\$9,466.3)	(\$9,466.3)	(\$9,466.3)	est. 15.7% age 65+ eligible but not enrolled in Medicare=1800; avg annual cost avoided per enrollee=\$6,500; est wt avg mo premium for buy-in=\$100. DPA admin 1 FTE= \$73.7 @ 50% FMAP.
Must enroll in Medicare if eligible	Federal	(\$1,370.9)	(\$5,040.2)	(\$4,775.1)	(\$4,733.1)	(\$4,733.1)	(\$4,733.1)	
	GF Match	(\$1,007.1)	(\$4,426.1)	(\$4,691.2)	(\$4,733.2)	(\$4,733.2)	(\$4,733.2)	
Section 7, subsection (m).	Total	(\$20.6)	(\$165.0)	(\$250.0)	(\$250.0)	(\$250.0)	(\$250.0)	# penalties in past 6 mos=6; avg months penalized: 5; avg annual cost per OA waiver enrollee=\$50,000; ramp up savings over 3 years
Penalty period for transfer of assets at less than fair market value (DRA 2006)	Federal	(\$11.9)	(\$87.8)	(\$126.1)	(\$125.0)	(\$125.0)	(\$125.0)	
	GF Match	(\$8.7)	(\$77.2)	(\$123.9)	(\$125.0)	(\$125.0)	(\$125.0)	
Section 7, subsection (n).	Total	(\$62.5)	(\$250.0)	(\$250.0)	(\$250.0)	(\$250.0)	(\$250.0)	# LTC recipients with \$500K home=0; est # enrollees=5; avg annual cost per OA waiver enrollee=\$50,000
Homes exceeding \$500K are resource for Medicaid eligibility	Federal	(\$36.0)	(\$133.1)	(\$126.1)	(\$125.0)	(\$125.0)	(\$125.0)	
	GF Match	(\$26.5)	(\$117.0)	(\$123.9)	(\$125.0)	(\$125.0)	(\$125.0)	
Section 8	Total	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	cost avoidance: not budgeted so no fiscal impact
Terminating waiver services if "materially improved"	Federal	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
	GF Match	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Section 11	Total	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	DBH admin costs for report=\$0 if BTKH Project Mgr is funded in SFY07 budget
Report on RPTC changes recommended by DHSS	Federal	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
	GF Match	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	

HB

426

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 05 2006
SENATE FINANCE COMMITTEE

DATE: 5/2/06

FURTHER:

DATE TURNED
IN TO OFFICE: 5 May 2006

Finance Committee considered CS FOR HOUSE BILL NO. 426(FIN)(title am)

HB 426 MEDICAL ASSISTANCE/INS COOPERATION

"An Act relating to cooperation of insurers with the Department of Health and Social Services; relating to subrogation, assignment, and lien rights and notices for medical assistance claims; relating to recovery of medical assistance overpayments; relating to asset transfers and income diversion by medical assistance applicants; relating to assets and Medicare enrollment as they affect medical assistance coverage; relating to home and community-based services; relating to medical assistance applications for persons under 21 years of age; requiring a report by the Department of Health and Social Services; and providing for an effective date."

and recommends:

- be replaced with 5 CS CS HB 426 (FIN)
- adopt previous _____ CS CS forthcoming : (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DHSS Behavioral	4/12/06			<input checked="" type="checkbox"/>	#1
DHSS Pub. Asst	4/12/06	51.7			#2
DHSS Sen Disabl	4/12/06	(89.1)			#3
DHSS HealthCare	4/12/06	(2,734.9)			#4
DHSS Med. Asst	4/12/06	190.3			#5

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS;	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			

FISCAL NOTE

REPORTED OUT
MAY 05 2006
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS RDU Behavioral Health
UNDER 21
 Component: Behavioral Health Administration

Sponsor: COGHILL
 Requester: HOUSE (FIN) Component No. 2665

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 11 of this bill requires the Department to prepare a report of recommendations for changes for residential psychiatric and substance abuse treatment programs that address reduction of medical assistance expenditures, enhancement of parental responsibility, and maximization of third-party resources.

This provision will have a zero fiscal cost under the assumption that the new Bring the Kids Home Project Manager position in the FY07 proposed budget is funded. The report would be written by the new position.

This is the only section of the bill that affects the Division of Behavioral Health. The eligibility groups affected (recipients of long-term care services and minors applying for themselves) by this bill generally do not use mental health services.

Prepared by: Christy Willer, Director Phone 269-3410
 Division: Behavioral Health Services Date/Time 04/12/2006
 Approved by: Karleen Jackson, Commissioner Date 04/12/2006
 Agency: Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 426(HES)
(H) Publish Date: 4/12/06
Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):
Title: RELATING TO MEDICAL ASSISTANCE ELIGIBILITY AND COVERAGE FOR PERSONS UNDER 21 RDU Public Assistance
Component: Public Assistance Field Svcs
Sponsor: COGHILL
Requester: HOUSE (FIN) Component No. 236

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	40.6	162.4	162.4	162.4	162.4	162.4
Travel						
Contractual	4.3	17.0	17.0	17.0	17.0	17.0
Supplies	6.8	5.0	5.0	5.0	5.0	5.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	51.7	184.4	184.4	184.4	184.4	184.4
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	25.9	92.2	92.2	92.2	92.2	92.2
1003 GF Match	25.8	92.2	92.2	92.2	92.2	92.2
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	51.7	184.4	184.4	184.4	184.4	184.4

Estimate of any current year (FY2006) cost: _____
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill contains provisions that change medical assistance eligibility in AS 47.07.020, which will increase the workload of Eligibility Technicians.

Section 7, subsection (j-k) limits who may apply for medical assistance for a person under 18 years of age.
Section 7, subsection (l) requires that persons applying for medical assistance must enroll for Medicare if eligible.

These provisions increase workload by requiring Eligibility Technicians to spend more time with applicants searching for legal guardians or parents of minors, and assisting eligible persons to enroll in Medicare.

Prepared by: Kitty Farnham, Director Phone 465-5835
Division: Public Assistance Date/Time 04/12/2006
Approved by: Karleen Jackson, Commissioner Date 04/12/2006
Agency: Department of Health and Social Services

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STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

MINORS APPLYING FOR MEDICAID

Currently, any adult may apply on behalf of a minor and minors may apply for themselves. Section 7, subsections (j) and (k) provide that only an adult who has a legal or vested interest may apply for Medicaid on behalf of a child under age 18. The department must make reasonable efforts to contact the parent or legal guardian before granting a waiver of consent. If a waiver of consent is granted, the department must document the reason for the waiver in the child's medical assistance record. Under this provision, Division staff will have to spend more time with applicants to contact and obtain consent of the parent or legal guardian or document a waiver.

Total Annual Costs = \$110.6 thousand for an additional 1.5 positions plus an extra \$4.4 thousand in FY07

Assumptions:

- ~Approximately 3800 minor children apply for Medicaid each year.
- ~An additional 45 minutes per application, on average, will be needed for eligibility staff to contact a minor applicant's parent(s) or legal guardian to obtain consent (or make a reasonable attempt to obtain consent) for the application, or to gather enough information needed to waive consent.
- ~3800 applications/per year x 45 minutes = 171,000 minutes per year or 2,850 hours
- ~Eligibility staff work 162 hours/month x 12 = 1944 hours/year
- ~2850 hours per year / 1944 hours per technician = 1.5 workers
- ~Average personnel costs for an Eligibility Technician II is \$64,944/year
- ~One-time cost for computers and software in FY2007 = \$2,200/position
- ~Annual costs for office space, phones & supplies = \$8,800/position
- ~1 Eligibility Technician II full time = \$64,944 + 1 Eligibility Technician II part-time = \$32,472 = \$97,416/year
- ~Supplies & contractual costs for 1.5 positions = \$15,400 in FY07; \$13,200/year FY08 and beyond

ENROLLMENT IN MEDICARE

Currently, enrollment in Medicare is optional for medical assistance applicants. Section 7, subsection (l) requires that a person who is eligible must first enroll in the Medicare program before they are eligible to receive benefits through Medicaid. Under this provision Division staff will have to spend more time with applicants to evaluate Medicare eligibility and monitor their continued enrollment in Medicare.

Total Annual Costs = \$73.7 thousand for an additional 1 position plus an extra \$2.2 thousand in FY07

Assumptions:

- ~On average, 1800 individuals per month appear eligible for, and not enrolled in Medicare
- ~Eligibility for Medicare will be assessed at initial application and during the 6-month eligibility review
- ~Eligibility staff will need an additional 60 minutes per month to evaluate an individual's eligibility for Medicare, and to require and monitor enrollment as a condition of eligibility for Medicaid
- ~1800 individuals per month x 60 mins/case = 1800 hours / 12 months = 150 hours/month

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

- ~Average personnel costs for an Eligibility Tech II is \$64,944/year
- ~One-time cost for computers and software in FY2007 = \$2,200/position
- ~Annual costs for office space, phones & supplies = \$8,800/position
- ~1 Eligibility Technician II full time = \$64,944/year
- ~Supplies & contractual costs for 1 position = \$15,400 in FY07; \$13,200/year FY08 and beyond

Other Assumptions:

- ~The bill takes effect July 1, 2006; however, implementation would be delayed until the 4th Quarter while waiting for approval of a Medicaid State Plan Amendment. For this reason, FY07 is 25% of a full year.
- ~The federal matching rate is 50%.
- ~The other sections of this bill will not substantially increase the workload and do not need a fiscal note in this component.

FISCAL NOTE

REPORTED OUT
MAY 05 2006
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE ELIGIBILITY AND COVERAGE FOR PERSONS UNDER 21 RDU Senior and Disabilities Svcs
 Component: Senior/Disabilities Medicaid Svc

Sponsor: COGHILL
 Requester: HOUSE (FIN) Component No. 2662

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(83.1)	(415.0)	(500.0)	(500.0)	(500.0)	(500.0)
Miscellaneous						
TOTAL OPERATING	(83.1)	(415.0)	(500.0)	(500.0)	(500.0)	(500.0)
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(47.8)	(220.9)	(252.2)	(250.0)	(250.0)	(250.0)
1003 GF Match	(35.3)	(194.1)	(247.8)	(250.0)	(250.0)	(250.0)
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(83.1)	(415.0)	(500.0)	(500.0)	(500.0)	(500.0)

Estimate of any current year (FY2006) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill contains provisions that bring Alaska Statute into line with the deficit Reduction Act of 2005 including many mandatory rule changes related to determining financial eligibility for long-term-care related Medicaid.

Sec. 6 makes it more difficult to use an annuity to shelter assets when trying to qualify for Medicaid.

Sec. 7, subsection (m) allows the State to impose stricter penalties for transferring assets at below-market value.

Sec. 7, subsection (n) allows that a home valued over \$500,000 can be a resource in determining eligibility. Sec. 8 clarifies when a person on a home and community based waiver may be terminated from the waiver.

The 2 provisions will reduce Medicaid costs by reducing the number of persons eligible for Medicaid, most of whom are eligible for the Older Alaskans waiver program.

Prepared by: Rod Moline, Director Phone 465-3819
 Division: Senior and Disabilities Services Date/Time 04/12/2006
 Approved by: Karleen Jackson, Commissioner Date 04/12/2006
 Agency: Department of Health and Social Services

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STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

MEDICAID-QUALIFYING ANNUITIES

Currently, various kinds of trusts and annuities can be used to shelter assets when trying to qualify for Medicaid. The federal law cited in the bill places more restrictions on annuities used for Medicaid purposes than exist now. Section 6 limits the annuities that do not affect eligibility to only those that meet the requirements of the federal law. This bill also gives the State the right to recover the balance of an annuity should a recipient die before the annuity has fully paid out.

Annual savings: \$0. This provision will not have a fiscal impact as it is not included in the budget now.

TRANSFER OF ASSETS AT BELOW-MARKET VALUE

Generally speaking, if a person applying for or receiving Medicaid benefits has transferred an asset at below-market value, that person may be subject to a period of ineligibility. Currently, the State can impose a penalty period beginning with the date of transfer. Section 7, subsection (m) allows the penalty period to begin with the date of application for Medicaid. This will eliminate almost all instances when an individual escapes serving a penalty period because the penalty period has already run its course before the Medicaid application is submitted. This would mostly affect applicant's seeking long-term care coverage including long-term care services under the Older Alaskans waiver program.

Annual savings to Medicaid = \$250.0 thousand

Assumptions:

- ~The number of applicants penalized in past 6 months = 6, which is 12 annually
- ~Average number of months penalized = 5
- ~Estimated total number of months eligibility is delayed annually due to penalties = 60
- ~Applicants would have been eligible for the OA waiver program
- ~Average annual cost per OA waiver recipient = \$50,000, which is \$4,167 per month
- ~The savings will ramp up over a 3-year period

HOMES AS A RESOURCE

Normally, a person's home is an exempt resource for Medicaid eligibility purposes. Section 7, subsection (n) puts a limit on the value of a home that would still qualify for this exemption. In effect, an individual will be ineligible for Medicaid if their home has an equity value for more than \$500,000, unless they sell it, borrowed against it, or take out a reverse mortgage to reduce the equity below \$500,000. This would mostly affect applicants seeking long-term care coverage including long-term care services under the OA Waiver program.

Annual savings to Medicaid = \$250.0 thousand

Assumptions:

- ~Currently number of long-term care recipients known to have a home valued over \$500,000=0
- ~Don't have any data on number of applicants with homes valued over \$500,000
- ~Estimated number of applicants per year with homes valued over \$500,000 who would now be ineligible = 5
- ~Applicants would have been eligible for the OA waiver program
- ~Average annual cost per OA waiver recipient = \$50,000

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

**TERMINATING WAIVER
SERVICES**

This section is in response to a class action lawsuit filed against the Division regarding how individuals from the Older Alaskans and Adults with Physical Disabilities waivers are assessed and terminated from the program. Prior to the litigation the Division only assessed individuals based on the current circumstances and level of client function. Section 8 says that a person who is eligible for a home and community based waiver may be terminated from the waiver only if the recipient scores below the eligibility standard on the assessment and an independent qualified health care professional certifies that the recipient's condition has materially improved from the previous assessment.

Annual savings: \$0. This provision will not have a fiscal impact as it is not included in the budget now. It will be a cost avoidance.

Other Assumptions:

~The bill takes effect July 1, 2006; however, implementation would be delayed until the 4th Quarter while waiting for approval of a Medicaid State Plan Amendment. For this reason, FY2007 is 25% of a full year.

~The federal matching rate is the estimated SFY quarterly average FMAP for the applicable year: FY07=57.58%, FY08=53.22%, FY09=50.44%; FY10 to FY12=50.00%.

~The other sections of this bill do not need a fiscal note in this component.

FISCAL NOTE

REPORTED OUT
MAY 05 2006
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: C IB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE ELIGIBILITY AND COVERAGE FOR PERSONS UNDER 21 RDU Health Care Services

Sponsor: COGHILL
 Requester: HOUSE (FIN)

Component: Medicaid Services
 Component No.: 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(2,734.9)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)
Miscellaneous						
TOTAL OPERATING	(2,734.9)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(1,574.8)	(5,792.8)	(5,490.2)	(5,442.3)	(5,442.3)	(5,442.3)
1003 GF Match	(1,160.1)	(5,091.8)	(5,394.4)	(5,442.3)	(5,442.3)	(5,442.3)
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(2,734.9)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill contains provisions that would help to ensure repayment to the Medicaid program for cases involving Medicaid recipients receiving settlements or judgments from third party payers and would change medical assistance eligibility for minors and persons eligible for Medicare. These provisions will reduce Medicaid expenditures by increasing recoveries and reducing the number of persons eligible for Medicaid.

Sections 1-5 and 9-10 contain provisions that will result in more subrogation cases and increased recoveries for the Medicaid program.

Section 7, subsection (j-k) limits who may apply for medical assistance for a person under 18 years of age;

Section 7, subsection (l) requires that persons applying for medical assistance must enroll for Medicare if eligible.

Prepared by: Dwayne Peoples, Director
 Division: Health Care Services
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-5830
 Date/Time: 04/12/2006
 Date: 04/12/2006

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

SUBROGATION AND RECOVERIES

Sections 1-5 and 9-10 of this bill requires insurers to coordinate benefits with other insurers (including Medicaid); clarifies that the department may take the role of the recipient when the department has paid medical claims on behalf of the recipient and the recipient may be in a position to recover funds that are partially attributable to the injury and medical care received; clarifies that the Department may take the place of the recipient and pursue recovery if the recipient chooses not to pursue a liable 3rd party; and requires that the state be notified of cases and settlements from third party payers. Section 5 provides the state the ability to attach Permanent Fund dividends of recipients in cases where the state is not notified of a Medicaid recipient's recovery and has no other recourse to recover amounts paid. Currently the Department is authorized to garnish a recipient's PFD to recover General Relief, Adult Public Assistance, food stamps and Alaska Temporary Assistance Program overpayments, but not Medicaid. The department needs the same authority to recoup overpayments from Medicaid recipients who have received Medicaid coverage but shouldn't have, including those who choose to receive continued Medicaid benefits pending a fair hearing, but who ultimately lose the fair hearing. One of the most efficient and least intrusive recovery methods has been to garnish the recipient's PFD.

Annual savings to Medicaid: \$1,010.2

Assumptions:

- ~Additional staff resources from Department of Law applied to subrogation cases
- ~Annual subrogation recoveries of \$1M are doubled
- ~Increased amount of subrogation recoveries = \$1,000,0
- ~Number of cases with a successful garnishment of PFD annually = 12
- ~Average amount collected by garnishing PFD = \$850
- ~Annual amount collected by garnishing PFD = \$10.2

MINORS APPLYING FOR MEDICAID

Currently, any adult may apply on behalf of a minor and minors may apply for themselves. Section 7, subsections (j) and (k) provide that only an adult who has a legal or vested interest may apply for Medicaid on behalf of a child under age 18. The department must make reasonable efforts to contact the parent or legal guardian before granting a waiver of consent. If a waiver of consent is granted, the department must document the reason for the waiver in the child's medical assistance record. Under this provision, some applicants will not be eligible because either the adult refuses to enroll the minor or the additional income makes the minor ineligible.

Annual savings to Medicaid: \$334.4

Assumptions:

- ~Number of minor children who apply themselves for Medicaid each year = 3800
- ~1% would be ineligible because the parent/guardian refuses to enroll = 38 minors
- ~1% would be ineligible because the parent/guardian's income exceeds the income limits = 38 minors
- ~Average annual cost per minor = \$4,400

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

ENROLLMENT IN MEDICARE

Currently, enrollment in Medicare is optional for medical assistance applicants. Section 7, subsection (1) requires that a person who is eligible must first enroll in the Medicare program before they are eligible to receive benefits through Medicaid. In June, 2005, the Centers for Medicare and Medicaid Services (CMS) informally revised its policy and now allows states to require Medicare enrollment as a condition of eligibility for those who qualify for it. Most, but not all, seniors have enrolled in Medicare and adding this requirement would help the department maximize the 100% federal dollars available from Medicare for all Medicare eligible recipients. Medicare Part A would pay for some of the most expensive individual cases, including those with end-stage renal disease. Medicaid would continue to pay the premiums and co-payments for the lowest income Medicare recipients.

Annual savings to Medicaid: \$9,540.0

Assumptions:

- ~On average, 1800 individuals per year appear eligible for, and not enrolled in Medicare
- ~Total Average annual Medicaid benefits costs avoided per Medicare enrollee = \$6,500.00
- ~Annual amount of Medicaid benefit costs saved by requiring Medicare enrollment = \$11,700.0
($\$6,500 \times 1,800$)
- ~Savings are offset somewhat by the additional cost of premiums for Medicare recipients
- ~Weighted average monthly premium amount for Medicare = \$100 or \$1,200.00 p/year
- ~Increased annual costs for premium buy-in of persons required to enroll in Medicare = \$2,160.0
($\$1,200.00 \times 1800$)

Other Assumptions:

~The bill takes effect July 1, 2006; however, implementation would be delayed until the 4th Quarter while waiting for approval of a Medicaid State Plan Amendment. For this reason FY2007 is 25% of a full year's costs.

~The federal matching rate is the estimated SFY quarterly average FMAP for the applicable year: FY07=57.58%, FY08=53.22%, FY09=50.44%; FY10 to FY12=50.00%.

~The other sections of this bill do not need a fiscal note in this component.

FISCAL NOTE

REPORTED OUT
MAY 05 2006
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS RDU Health Care Services
UNDER 21
 Component: Medical Assistance Admin.

Sponsor: COGHILL
 Requester: HOUSE (FIN) Component No. 242

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	190.3	190.3	190.3	190.3	190.3	190.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	190.3	190.3	190.3	190.3	190.3	190.3
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	95.2	95.2	95.2	95.2	95.2	95.2
1003 GF Match	95.1	95.1	95.1	95.1	95.1	95.1
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	190.3	190.3	190.3	190.3	190.3	190.3

Estimate of any current year (FY2006) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill contains provisions that would help to ensure repayment to the Medicaid program for cases involving Medicaid recipients receiving settlements or judgments from third party payers.

The requirements contained in this bill will result in more subrogation cases and increased recoveries for the Medicaid program. This bill will increase the caseload for Department of Law employees working in the subrogation area.

Prepared by: Dwayne Peoples, Director Phone: 465-5830
 Division: Health Care Services Date/Time: 04/12/2006
 Approved by: Karleen Jackson, Commissioner Date: 04/12/2006
 Agency: Department of Health and Social Services

COMMITTEE COPY

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

SUBROGATION AND RECOVERIES

Sections 1-5 and 9-10 of this bill requires insurers to coordinate benefits with other insurers (including Medicaid); clarifies that the department may take the role of the recipient when the department has paid medical claims on behalf of the recipient and the recipient may be in a position to recover funds that are partially attributable to the injury and medical care received; clarifies that the Department may take the place of the recipient and pursue recovery if the recipient chooses not to pursue a liable 3rd party ; requires that the state be notified of cases and settlements from third party payers; and provides the state the ability to attach Permanent Fund dividends of recipients in cases where the state is not notified of a Medicaid recipient's recovery and has no other recourse to recover amounts paid.

These provisions will increase the caseload for Department of Law employees working in the subrogation area. Health Care Services currently has an RSA with the Department of Law for subrogation work. Health Care Services would expand the RSA by \$190.3 for additional Department of Law staff of 1 FTE attorney and 1 FTE law office assistant. With the additional staff, the Department of Law estimates subrogation recoveries could easily double.

Assumptions:

- Subrogation caseload doubles from \$1M per year to \$2M

- The bill takes effect July 1, 2006. The Department of Law intends to staff the new positions in July.

- The federal matching rate is 50%.

- The other sections of this bill will not substantially increase the workload and do not need a fiscal note in this component.

1 OF ANY ACTION OR CLAIM AGAINST A THIRD-PARTY PAYOR IF
 2 MEDICAL ASSISTANCE WAS PROVIDED BY THE DEPARTMENT TO TREAT
 3 AN INJURY OR ILLNESS FOR WHICH THE THIRD PARTY MAY BE LIABLE.]

4 Notwithstanding the assertion of any action or claim by the recipient of medical
 5 assistance, the department may bring an action in the superior court against an alleged
 6 third-party payor to recover an amount subrogated to the department for medical
 7 assistance provided on behalf of a recipient.

8 * **Sec. 3.** AS 47.05 is amended by adding new sections to read:

9 **Sec. 47.05.071. Duty of a medical assistance recipient.** (a) A medical
 10 assistance recipient shall cooperate with and assist the department in identifying and
 11 providing information concerning third parties who may be liable to pay for care and
 12 services received by the recipient under the medical assistance program.

13 (b) A medical assistance recipient may not compromise or resolve an action or
 14 claim seeking payment for or related to an injury or illness for which care or services
 15 were provided or received under the medical assistance program against an insurer,
 16 entity, or other person without first providing notice to the attorney general's office of
 17 the facts and circumstances giving rise to the action or claim and the asserted basis for
 18 supporting the action or claim.

19 (c) A medical assistance recipient may not receive payment from any source
 20 on account of or related to care or services for which medical assistance was received
 21 unless the recipient has received written consent of the attorney general's office and
 22 has paid the department reimbursement of the amount of medical assistance provided
 23 or paid.

24 (d) As a condition of medical assistance eligibility, a person who applies for
 25 medical assistance shall, at the time of application,

26 (1) assign to the department the applicant's rights of payment for care
 27 and services from any third party;

28 (2) cooperate with and assist the department in identifying and
 29 providing information concerning third parties who may be liable to pay for care and
 30 services received by the recipient under the medical assistance program;

31 (3) assign to the department the applicant's right to the applicant's

1 permanent fund dividend and agree to sign a new assignment each year; the
 2 department shall use the assignment obtained under this paragraph to obtain
 3 reimbursement or enforce repayment when a recipient does not pay to the state
 4 reimbursement received from a third party for care or services provided or paid by the
 5 medical assistance program or fails to satisfy a lien perfected under AS 47.05.075; and

6 (4) agree to make application for all other available third-party
 7 resources that may be used to provide or pay for the cost of care or services received
 8 by the medical assistance recipient or that may be used to finance reimbursement to
 9 the state for the cost of care or services received by the medical assistance recipient.

10 **Sec. 47.05.072. Duty of attorney for medical assistance recipient.** (a) An
 11 attorney representing a medical assistance recipient shall notify the attorney general's
 12 office.

13 (b) The notice to the attorney general's office required under (a) of this section
 14 includes submission of the following:

15 (1) identification of the medical assistance recipient's name, last
 16 known address, and telephone number, and the date of the injury or illness giving rise
 17 to the action or claim;

18 (2) copies of the pleadings and other papers related to the action or
 19 claim;

20 (3) the identification of each potentially liable third party, including
 21 that party's name, last known address, and telephone number;

22 (4) the identification of any insurance policy potentially responsive to
 23 the action or claim; and

24 (5) a description of the facts and circumstances supporting the action
 25 or claim.

26 (c) An attorney who represents a medical assistance recipient shall give the
 27 attorney general's office 30 days' notice before any judgment, award, or settlement
 28 may be satisfied in an action or claim by the medical assistance recipient to recover
 29 damages for an injury or illness that has resulted in the department's providing or
 30 paying for medical assistance.

31 (d) Except for payments under AS 23.30, an attorney representing a medical

1 assistance waivers; and

2 (3) the annual assessment must find that the recipient's condition has
3 materially improved since the previous assessment; for purposes of this paragraph,
4 "materially improved" means that a recipient who has previously qualified for a
5 waiver for

6 (A) a child with complex medical conditions, no longer needs
7 technical assistance for a life-threatening condition, and is expected to be
8 placed in a skilled nursing facility for less than 30 days each year;

9 (B) mental retardation or developmental disability, no longer
10 needs the level of care provided by an intermediate care facility for the
11 mentally retarded either because the qualifying diagnosis has changed or the
12 recipient is able to demonstrate the ability to function in a home setting without
13 the need for waiver services; or

14 (C) an older Alaskan or adult with a physical disability, no
15 longer has a functional limitation or cognitive impairment that would result in
16 the need for nursing home placement, and is able to demonstrate the ability to
17 function in a home setting without the need for waiver services.

18 ~~* Sec. 9. AS 47.05.070(e) is repealed.~~

19 * Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 APPLICABILITY. Sections 2 - 4 of this Act apply to a cause of action related to a
22 subrogation, assignment, or lien by the Department of Health and Social Services that accrues
23 on or after the effective date of this Act.

24 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 REPORT. The Department of Health and Social Services shall prepare a report and
27 deliver the report to the legislature not later than the first day of the First Regular Session of
28 the Twenty-Fifth Alaska State Legislature. The report must include recommendations for
29 statutory, regulatory, and systematic changes that will

30 (1) assist the department in reducing medical assistance expenditures for
31 services received in mental health treatment facilities located in the state and outside the state,

1 including community mental health facilities, residential psychiatric treatment centers, and
 2 substance abuse treatment facilities;

3 (2) enhance and clarify parental financial responsibility for children receiving
 4 services provided by mental health treatment facilities located in the state and outside the
 5 state, including community mental health facilities, residential psychiatric treatment centers,
 6 and substance abuse treatment facilities; and

7 (3) maximize all third-party resources available to pay for the cost of services
 8 provided by mental health treatment facilities located in the state and outside the state,
 9 including community mental health facilities, residential psychiatric treatment centers, and
 10 substance abuse treatment facilities, before a provider seeks reimbursement under AS 47.07.

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

13 TRANSITION: REGULATIONS FOR HOME AND COMMUNITY-BASED
 14 SERVICES. To the extent that regulations on home and community-based services that are in
 15 effect on the effective date of sec. 8 of this Act are not inconsistent with the language and
 16 purposes of sec. 8 of this Act, those regulations remain in effect as valid regulations
 17 implementing sec. 8 of this Act.

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

20 STATE PLAN. (a) The Department of Health and Social Services shall immediately
 21 apply for federal approval of a revised state plan to implement the changes to the medical
 22 assistance program made under secs. 1 - 7 and 9 of this Act.

23 (b) The commissioner of health and social services shall notify the revisor of statutes
 24 of the date of the federal approval of the revised state plan submitted under (a) of this section.

25 * Sec. 14. Sections 8 and 12 of this Act take effect immediately under AS 01.10.070(e).

26 * Sec. 15. Section 1 of this Act takes effect July 1, 2007.

27 * Sec. 16. Except as provided in secs. 14 and 15 of this Act, this Act takes effect July 1,
 28 2006, or on the date of notification under sec. 13 of this Act of federal approval of a revised
 29 state plan for medical assistance coverage incorporating the changes made by secs. 1 - 7 and 9
 30 of this Act, whichever is later.

SENATE FINANCE
COMMITTEE
Amendment # #1
To Bill Number: HB 426
Sponsor: Green
Date: 5/3/06 Logged by: Mindy

not offered

24-LS1602C.1
Mischel
5/3/06

AMENDMENT

OFFERED IN THE SENATE
TO: SCS CS HB 426(HES)

by Sen. Green

- 1 Page 5, lines 19 - 21:
- 2 Delete all material.
- 3
- 4 Reletter the following subsections accordingly.
- 5
- 6 Page 5, line 22, following "payment":
- 7 Insert "for medical costs"
- 8
- 9 Page 5, line 24:
- 10 Delete "full"
- 11
- 12 Page 6, lines 4 - 6:
- 13 Delete all material.
- 14
- 15 Reletter the following subsections accordingly.
- 16
- 17 Page 6, line 14:
- 18 Delete "(a) - (g)"
- 19 Insert "(a) - (e)"

Adopted

SENATE FINANCE
COMMITTEE
Amendment # # 2
To Bill Number: HB 426
Sponsor: Green
Date: 5/5/06 Logged by: Robin

24-LS1602C.2
Mischel
5/5/06

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 426(HES)

1 Page 2, line 26:

2 Delete "If"

3 Insert "When [IF]"

4

5 Page 2, lines 27 - 30:

6 Delete "the rights of the recipient of that medical assistance for any claim arising from
7 the injury or illness and to the proceeds of an insurance policy covering the injury or illness to
8 the extent of the value of the medical assistance provided. ["

9 Insert "not more than the part of an insurance payment or other recovery by the
10 recipient that is for medical expenses provided by the department [THE RIGHTS OF
11 THE RECIPIENT OF THAT MEDICAL ASSISTANCE FOR ANY CLAIM ARISING
12 FROM THE INJURY OR ILLNESS AND TO THE PROCEEDS OF AN INSURANCE
13 POLICY COVERING THE INJURY OR ILLNESS TO THE EXTENT OF THE VALUE OF
14 THE MEDICAL ASSISTANCE PROVIDED."

15

16 Page 3, line 3:

17 Delete ".]"

18 Insert "]."

19

20 Page 3, lines 13 - 23:

21 Delete all material.

22

23 Reletter the following subsection accordingly.

1

2 Page 3, line 27, following "party":

3 Insert "to the extent the department has paid medical assistance for care and services"

4

5 Page 3, line 30, following "program;":

6 Insert "and"

7

8 Page 3 line 31, through page 4, line 5:

9 Delete all material.

10

11 Renumber the following paragraph accordingly.

12

13 Page 4, line 28:

14 Delete "may be"

15 Insert "is"

16

17 Page 4, line 31, through page 5, line 10:

18 Delete all material.

19

20 Reletter the following subsection accordingly.

21

22 Page 5, lines 15 - 21:

23 Delete all material.

24 Insert "lien."

25

26 Reletter the following subsections accordingly.

27

28 Page 5, line 22, following "payment":

29 Insert "for medical costs"

30

31 Page 5, line 24:

- 1 Delete "full"
- 2
- 3 Page 5, line 31:
- 4 Delete "ful"
- 5
- 6 Page 6, lines 4 - 10:
- 7 Delete all material.
- 8
- 9 Reletter the following subsections accordingly.
- 10
- 11 Page 6, line 11, following "discharge":
- 12 Delete "or give written consent related to"
- 13
- 14 Page 6, line 12:
- 15 Delete "or consent"
- 16
- 17 Page 6, line 14:
- 18 Delete "(a) - (g)"
- 19 Insert "(a) - (c)"
- 20
- 21 Page 10, line 25:
- 22 Delete "and 12"
- 23 Insert ". 12, and 13"

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

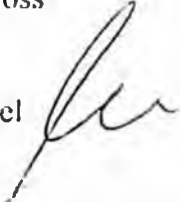
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

May 5, 2006

SUBJECT: SCS CSHB 426 (HES) (Work Order No. 24-LS1602C.2)

TO: Representative John Coghill Jr.
Attn: Rynniewa Moss

FROM: Jean M. Mischel
Legislative Counsel 

Attached is the amendment you requested for SCS CSHB 426(HES). As we discussed by telephone, these changes are being made after discussions with Stacie Kraly of the Department of Law and reviewing the recent United States Supreme Court Decision, *Arkansas v. Ahlborn*, 547 U.S. ___ (5/1/06). You have directed me to preserve as much of the Department of Law's subrogation rights as possible while complying with federal law.

I have made one significant change to the draft faxed by Ms. Kraly in order to preserve the notice provision before a settlement or judgment is entered. At page 4, lines 26 through 30 of version C of the bill, I have retained subsection (c) in this amendment with one change: I have deleted "may be" and replaced it with "is" to avoid the circumstance of mandating a delay by the court in entering a judgment or approving a settlement on a third party claim. The goal, I think, in section 3 of the bill is to provide an opportunity for the department to enforce its lien on a judgment or settlement without unilaterally controlling the outcome of a case involving a medical assistance recipient. This change should better accomplish that.

If I may be of further assistance, please advise.

JMM:lmb
06-163.lmb

Enclosure

Adopted

SENATE FINANCE
COMMITTEE
Amendment # # 3
To Bill Number: HB 426
Sponsor: Green
Date: 5/6/00 Logged by: Mindy

SENATE FINANCE COMMITTEE

AMENDMENT No. 3

By Sen. Green

To: SCS CS HB ~~SENATE BILL~~ No. 426 (HEs)

To: _____ SENATE BILL No. _____

pg. 5, line 31:
delete: (1)

pg. 6, line 3:

delete: (2) obtaining the
express written consent of the
attorney general.

SENATE FINANCE
COMMITTEE
Amendment # #4
To Bill Number: HB 426
Sponsor: Green
Date: 5/1/00 logged by: Mindy

AMENDMENT # 4

24-LS1602\C
Adopted

OFFERED IN THE SENATE FINANCE

BY SENATOR Green

TO: SCS CSHB 426(HES)

- 1 Page 4, line 9, after the words "medical assistance recipient.":
- 2 Insert:
- 3 A medical assistance recipient is under no duty to file a civil or other^s action in
- 4 Order to reimburse the state for the cost of care or services.