

1971

HRLS

HB 229

-

HB 357

97

TO: MEMBERS H. RULES

FROM: Hugh Malone

FEB 9

I AM ENCLOSING A NEWSPAPER
ARTICLE THAT MAY RELATE
TO CSHB 229.

ALSO, I GOT IN TOUCH WITH
MR MICHAEL BARCOTT, WHO
IS MENTIONED IN THE ARTICLE.

I PARTICULARLY CALL YOUR
ATTENTION TO THE LETTER
HE SENT IN REPLY.

I APPRECIATE YOUR ATTENTION
TO THIS INFORMATION

H Malone

SAVE FOR

CS HB 229 (Now in RLS)

The Anchorage Times

Tuesday, February 2

City / State

- Neighbors
- Tell It to Bud
- Business

Slope employees sue for \$15 million overtime

by Patti Epler
Times Writer

Alaska-based employees of an international oil industry service contractor are seeking more than \$15 million in damages against the company because of the company's overtime pay policy.

In a class action suit filed in Superior Court here, an estimated 200 employees of Dresser Industries Inc. have asked the court to award them more than \$5 million in back wages that they say they would have earned if overtime had been computed properly. They are seeking an additional \$10 million in punitive

damages for the company's failure to pay proper overtime despite an Alaska Supreme Court ruling requiring them to do so.

Dresser Industries is an international business that contracts with oil companies to service oil wells in Alaska.

The suit is based on a state Department of Labor regulation regarding the way in which overtime should be paid and a previously tested case.

Dresser Industries, according to documents on file in Anchorage Superior Court, operates on a "flexible work week," a practice declared illegal

by the Alaska Supreme Court.

Michael A. Barcott, the attorney representing the employees, said employees of Dresser Industries were given a base pay of \$400 per week but that the "base" hours worked varied from employee to employee. For instance, he said, an employee who worked 50 hours per week would receive overtime based on an \$8 per hour wage while another employee who worked 100 hours per week would receive overtime based on \$4 per hour wage.

It's not uncommon for Dresser Industries employees to work 100 to 150 hours per week on the North

Slope, he said.

Barcott said the flexible work week has been a common practice in the past for oil field employers. But in 1978, the Alaska Department of Labor placed restrictions on the manner in which overtime could be paid, making the flexible work week illegal.

Several other North Slope contractors besides Dresser Industries apparently still use the flexible work week, Barcott said.

One Dresser employee, Harley Woody, took the company to court two years ago on the same issue — the way in which they were comput-

ing overtime.

The Alaska Supreme Court found that the flexible work week method was illegal and awarded Woody \$4,000 in back pay for the time he was employed by Dresser.

Dresser Industries, which the employees allege has not changed their policy despite the court ruling, has appealed the ruling to the U.S. Supreme Court. The nation's highest court has not yet indicated whether it will hear the case.

The class action suit against Dresser Industries includes two classes of people:

— "All past and present em-

ployees (of Dresser) who have been employed in the State of Alaska and paid wages under the flexible work week."

— All Dresser employees who have been paid bonuses and time based on the bonuses, a practice the company has employed since November.

In addition to the \$15 million in damages, the employees are asking the court to declare invalid Dresser's current method of calculating overtime pay.

John Martin of Dresser Atlas said this morning "we've got absolutely no comment" on the lawsuit.

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February 4, 1982

The Honorable Hugh Malone
Pouch V
Juneau, Alaska 99811

Re: C.S.H.B. 229

Dear Representative Malone:

I have had the opportunity to review C.S.H.B. 229 which has been introduced in this legislative session. I am particularly concerned with Sections 2 and 3 of that Act.

I have filed suit in the Superior Court for the Third Judicial District at Anchorage against Dresser Industries, Inc. This suit has been brought as a class action and I enclose a copy of the complaint for your perusal. As you can see, this is a claim under the Alaska Wage and Hour Act and it is our contention that approximately \$5,000,000 in past due overtime wages are owed to employees and former employees of Dresser Industries, Inc. As an initial matter allow me to express my dismay at the fact that for years many large employers in this state have acted in violation of the regulations of the Department of Labor at the expense of employees. Now having been caught by the Alaska Supreme Court, they have apparently come to the legislature for assistance in extricating themselves from their own misdeeds.

As you are undoubtedly aware, the present Alaska Wage and Hour Act contains a provision in A. 23.10.110(a) providing that if it is determined that an employee is entitled to back wages that an additional equal amount is provided as liquidated damages. Thus, if one of the Dresser employees was underpaid by \$5,000.00 in wages, he would be entitled to receive \$10,000.00 upon a favorable judgment.

Additionally, AS 23.10.110(c) includes a provision that if an employee is successful in an action, he is entitled to costs and reasonable attorneys' fees to be paid by the defendant.

The Honorable Hugh Malone
February 4, 1982
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C.S.H.B. 229 contains in Section 2 a provision that apparently would have the effect of introducing a "good faith" defense to actions for double damages and costs and attorneys' fees. In addition, Section 3 of the Committee Substitute states that it applies to actions "that have not been completed on the effective date of this Act." Thus, as I read C.S.H.B. 229, it attempts to retroactively limit damages which may be recovered in wage and hour claims in addition to providing a change in future cases.

I have some general comments concerning the wisdom of the bill per se and specific comments concerning the effect of that bill on the litigation which presently is pending against Dresser Industries. For the purpose of convenience I will separate those two discussions.

THE BILL GENERALLY

1. Good Faith Defense/Double Damages.

The inclusion of a good faith defense to the double damages provision of the Alaska Wage and Hour Act will bring the Alaska Wage and Hour Act into conformity with acts of several jurisdictions. There certainly are bona fide arguments that can be made both for and against such a provision. From the employer's standpoint, it may seem harsh to require an employer who has acted in good faith to pay twice what the employee would have earned had his wages been properly calculated.

On the other hand, from the point of view of the employee, it is certainly true that it may be difficult in small cases to obtain counsel to pursue an action.^{1/} The inclusion of a double damages provision will assist employees in obtaining legal redress. Additionally, of course, there is something to be said for a deterrent in a wage and hour act. In the give and take of litigation it frequently is very difficult to disprove an employer's claim that it was

^{1/} For cases which involve less than \$5,000 the Attorney General can maintain an action for the employee.
AS 23.10.110(b), 8 AAC 15.175(b).

The Honorable Hugh Malone
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Page Three

acting in good faith and the inclusion of a double damages provision without a good faith defense adds a substantial deterrent to those who might be inclined to stretch the meaning of the Alaska Wage and Hour Act. Finally, the good faith defense will substantially prolong all wage and hour claims as employers will have the financial ability to present the numerous factors that will provide a good faith defense. This will both delay the employee's recovery and increase his expense.

I am certain that organized labor will properly point out the difficulties inherent in adding yet one additional complicating factor to all cases which are brought for overtime wages.

2. Retroactive Application.

Generally I believe the retroactive application of the good faith defense provided in C.S.H.B. 229 may run afoul of constitutional principles. A substantial argument can be made for the proposition that an employee employed prior to the passage of C.S.H.B. 229 had the then existing provisions of the Alaska Wage and Hour Act incorporated into his contract of hire. That contract of hire then would have included the double damages provision presently existing in AS 23.10.110(a), as well as the costs and attorneys' fees provision of AS 23.10.110(c). If the legislature passes the retroactive application section of C.S.H.B. 229, it may be seen as the State infringing on the contract of hire. Such action is, of course, unconstitutional under the United States Constitution. See generally, Trustees of Dartmouth College v. Woodward 4 Wheat. 518, 4 L.Ed.2d 629 (1819); State Workmen's Compensation Board v. Delaney, 615 P.2d 5, 7 (1980). Thus, if this provision is passed, it will face constitutional challenge.

EFFECT OF C.H.S.B. 229 ON ESHLEMAN V. DRESSER INDUSTRIES

While I cannot imagine that Dresser was acting in good faith in violating an express provision of the Alaska Administrative Code, C.S.H.B. 229 will substantially increase the costs of that litigation. Allow me to explain.

The Honorable Hugh Malone
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Page Four

1. Good Faith Defense

The good faith defense introduced by C.S.H.B. 229 will be exceedingly difficult for Dresser Industries to establish in the presently pending litigation. Dresser's pay scale was in absolute violation of an existing Alaska regulation. It is beyond comprehension that Dresser could establish that its method was adopted "in good faith." Clearly, a payment method in violation of an Alaska regulation is not the kind of payment which is encompassed in the "good faith" defense provided by C.S.H.B. 229. I certainly believe that a statement to that effect should be contained in the legislative history of this amendment. Thus, to the extent there is a good faith defense which may apply to the presently pending litigation, I would hope that it would not affect the ultimate outcome.

It is obviously true, nonetheless, that Dresser Industries will assert a good faith defense in the presently pending litigation, should C.S.H.B. 229 be adopted. That is an issue which will involve a complex fact finding process and will substantially prolong and delay this lawsuit as well as all other claims for overtime wages. It is precisely this type of disadvantage to the employee which renders the inclusion of a good faith defense somewhat unfair to the employee. If the good faith defense is asserted in the presently pending litigation, it may prolong by six months to a year the ultimate resolution of this case and certainly will provide an issue for Dresser Industries to appeal to the Alaska Supreme Court. To those employees of Dresser Industries who are awaiting wages which clearly are due to them under the terms of the Alaska Wage and Hour Act, inclusion of this defense by the legislature at this point in time would be very unfair.

2. Retroactive Application.

The employees of Dresser Industries were paid under a formula which was declared illegal by the Alaska Department of Labor. That payment method occurred over a three year time period. If those employees are now told that the law which declared this action illegal and provided double damages has been changed retroactively to effect their lawsuit, they would indeed have good cause for extreme sinicism concerning the government of this State. Although I do not anticipate that a retroactive allowance of a good faith defense will change the ultimate outcome of the litigation, it will make that process

The Honorable Hugh Malone
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substantially more difficult for these employees. When asked to explain to them how it is possible that the law under which they worked has been changed to provide them with less of a remedy than the legislature originally intended them to have, I will be extremely hard pressed to provide an answer. It is for precisely this reason that the United States Constitution prevents the impairment of contracts between parties by the legislatures of a state.

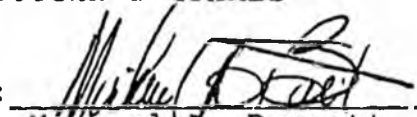
CONCLUSION

I have not had the opportunity fully to analyze all of the legal ramifications of C.S.H.B. 229. I provide these thoughts to you with the hope that it assists you in your consideration of this bill. If I can be of any further assistance, please do not hesitate to call. On behalf of the many Dresser Industries employees who have been illegally paid under the laws of the State of Alaska, I remain at your disposal.

Very truly yours,

FAULKNER, BANFIELD,
DOOGAN & HOLMES

By:


Michael A. Barcott

MAB/kl

HB 229 TITLE & SPONSOR SUMMARY

14:32 2/08/82 PAGE 1 OF 2

AMENDED TITLE:

AN ACT RELATING TO EMPLOYEE OVERTIME COMPENSATION; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: RANDULPH.

CO-SPONSORS: ANDERSON, BEIRNE, BETTISWORTH, FANNING, METCALFE.

CURRENT STATUS: 1/29/82 RET (H) RULES

HB 229 HOUSE ACTION

14:32 2/08/82 PAGE 2 OF 2

LEGISLATIVE ACTION

DATE SEQ PAGE

02/26/81	01	0379
01/25/82	02	0133
01/25/82	03	0134
01/29/82	04	0192
01/29/82	05	0192

FIRST READING -- COMMITTEE REPORTS

S.A. -- CS03, NR02

MOVED FROM FIN TO RLS BY UNAN CONSENT

RECOMM TO L&C FAILED BY DIV 12-24-04

RECOMMITTED TO RLS BY UNAN CONSENT

RULES

RULES

RULES

**** ** ** *** ** *

H B

3 3 2

A M E N D M E N T

OFFERED IN THE HOUSE:

By: RULES

To: amend HOUSE BILL No. 332 (Jud)

SENATE BILL No. _____

PAGE: _____

LINE: _____

Page 1, line 25: After "refiner" DELETE "is" and
INSERT "may be held"

Page 1, line 26: Between "fuel" and "only" INSERT "in an aircraft"

COMMITTEE REPORT

HOUSE

2/19
Rules

3/13/81

FURTHER:

(7)

Date: Feb 17, 82

Mr. Speaker:

The Committee on JUDICIARY has had HB 332

"An Act limiting the civil liability of aviation fuel refiners; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for H.B. 332 (Judiciary) same title new title
- and recommends it do pass
- AND attaches a "Letter of intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Freeman

Patricia O'Connell

Thomas H. Barnes, ch

MEMBERS HAVING
OTHER RECOMENDATIONS:

W. Anderson No Rec.

Bill E. Kelly: No Rec.

Thomas H. Barnes
CHAIRMAN

Committee Reports (House)

HB 52, (cont'd)

The letter of intent from the House Transportation Committee stated: "It is the intent of the House Transportation Committee that the following language accompany Section 1, AS 02.05.050(d)(7) to state that approval by the Commission is contingent upon a finding that the air taxi operator is fit, willing, and able to provide the additional service."

Appropriation HOUSE BILL NO. 244, (see page 394, 1981 report). Reported back to
(special) the House on February 17 by Health, Education and Social Services
(Petersburg/
Wrangell recommending it do pass. To Finance.
hospital)

The bill was introduced March 2, 1981 by Rep. Haugen. Makes a special appropriation for hospital expansion and improvement in Petersburg and Wrangell: \$7,100,000 for payment as a grant to the City of Petersburg for hospital expansion and improvement; \$6,500,000 for payment as a grant to the City of Wrangell for hospital expansion and improvement. Provides Act takes effect immediately.

Appropriations HOUSE BILL NO. 273, (see page 404, 1981 report). Reported back to
(special) the House on February 16 by Transportation with a majority recommend-
(road recon- ing it do pass. Reps. Moss and Duncan had no recommendation. To
struction, Finance.
S.E. Alaska)

Aviation Fuel HOUSE BILL NO. 332, (see pages 480;548, 1981 report). Reported back
Refiners to the House on February 19 by Judiciary recommending it be replaced
(liability) with a substitute and that it do pass. Reps. Anderson and Phillips
had no recommendation. To Rules.

The bill was introduced March 13, 1981 by Reps. Adams and Haugen by Request, and referred to Judiciary. It was introduced to protect aviation fuel refiners from unreasonable liability in the event of a civil action arising from an aircraft accident as a result of the quality or integrity of fuel which was placed in the fuel tanks after transfer from the refiner to a third party. The bill states that without the protection, refiners may be forced to withdraw from the Alaska aviation fuel market.

The Judiciary substitute changes wording in the section added to protect refiners. The substitute reads: "An aviation fuel refiner is liable in a civil action for injuries resulting from the use of contaminated or impure fuel when the aviation fuel refiner (1) intentionally, recklessly, or through gross negligence, causes or contributes to an injury; or (2) transfers the aviation fuel directly into the fuel tanks of an aircraft."

State Loan HOUSE BILL NO. 630, (see page 28). Reported back to the House on
Programs February 19 by Labor & Commerce recommending it do pass, and that it
(term. & be referred to the Special Committee on Loans. The bill was referred
consol.) to the Special Committee on Loans, then to State Affairs and Finance.

Original sponsors: Adams, Haugen and
Beirne by request

Offered: 2/19/82
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 332 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act limiting the civil liability of aviation fuel
7 refiners; and providing for an effective date."

7

8

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

9

* Section 1. FINDINGS. The legislature finds that

10

(1) aviation is essential to the life of every Alaskan, in com-
11 munications, commerce, and in emergencies;

12

(2) refiners distributing aviation fuel in Alaska perform an
13 important service by supplying high quality products throughout the state;

14

(3) once aviation fuel has been transferred by a refiner to the
15 storage tanks of a third party, a refiner has no control over the continued
16 quality and integrity of the fuel;

17

(4) in the event of a civil action arising from an aircraft acci-
18 dent, it may be unfair to hold a refiner liable for the quality and integrity
19 of fuel which was placed in aircraft fuel tanks after transfer from the
20 refiner to a third party;

21

(5) without protection from unreasonable liability, refiners may
22 be forced to withdraw from the Alaska aviation fuel market.

23

* Sec. 2. AS 09.65 is amended by adding a new section to read:

24

Sec. 09.65.140. CIVIL LIABILITY OF AN AVIATION FUEL REFINER. (a)

25

An aviation fuel refiner ^{now he held} is liable in a civil action for injuries result-
26 ing from the use of contaminated or impure fuel ^{in an aircraft} only when the aviation
27 fuel refiner

28

(1) intentionally, recklessly, or through gross negligence,
29 causes or contributes to an injury; or

1 (2) transfers the aviation fuel directly into the fuel tanks
2 of an aircraft.

3 (b) In this section

4 (1) "aviation fuel refiner" means a company, corporation, or
5 individual who owns or controls, or controls through a substantially
6 owned subsidiary, partnership, or joint venture, a refinery used for the
7 production of aviation fuel;

8 (2) "injury" includes death, personal injury, and property
9 damage whether tangible or intangible.

10 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
11 070(c).

Redraft of CS#B 332 (Judiciary)

Starting on line 24 of page 1:

Sec. 09.65.140. CIVIL LIABILITY OF
AN AVIATION FUEL REFINER. (a) An aviation
fuel refiner may be held [Is] liable in a
civil action for injuries resulting from the
use of contaminated or impure fuel in an
aircraft only when the aviation fuel
refiner

(1) intentionally, recklessly, or through
gross negligence, causes or contributes to an injury; or

(2) transfers the aviation fuel
directly into the fuel tanks of an
aircraft.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 332 (JUD)
 Title An act limiting the civil liability of aviation fuel refiners
 Requested by Judiciary Committee Date 2/19/82

II. FISCAL DETAIL

Agency Affected Division of Insurance
 Program Category Affected Public Protection
 BRU, Program, Or Subprogram(s) Affected Division of Insurance
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE March 15, 1982

PREPARED BY Kenneth C. Moore, Div. of Insurance
 AGENCY Commerce & Economic Development
 PHONE 465-2515

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

1 IN THE HOUSE

BY ADAMS AND HAUGEN BY REQUEST

2 HOUSE BILL NO. 332

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the civil liability of aviation fuel
7 refiners; and providing for an effective date."

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

9 * Section 1. FINDINGS. The legislature finds that

10 (1) aviation is essential to the life of every Alaskan, in com-
11 munications, commerce, and in emergencies;

12 (2) refiners distributing aviation fuel in Alaska perform an
13 important service by supplying high quality products throughout the state;

14 (3) once aviation fuel has been transferred by a refiner to the
15 storage tanks of a third party, a refiner has no control over the continued
16 quality and integrity of the fuel;

17 (4) in the event of a civil action arising from an aircraft
18 accident, it ~~is~~ ^{may be} unfair to hold a refiner liable for the quality and integri-
19 ty of fuel which was placed in aircraft fuel tanks after transfer from the
20 refiner to a third party;

21 (5) without protection from unreasonable liability, refiners may
22 be forced to withdraw from the Alaska aviation fuel market.

23 * Sec. 2. AS 09.65 is amended by adding a new section to read:

24 Sec. 09.65.140. CIVIL LIABILITY OF AN AVIATION FUEL REFINER. (a)

25 An aviation fuel refiner is ~~not~~ liable in a civil action for injuries
26 resulting from the use of contaminated or impure fuel in an aircraft, *only*

27 *where the aviation fuel refiner*
~~(b) This section does not apply to an aviation fuel refiner who~~
or recklessly or through gross negligence

28 (1) intentionally causes an injury or whose gross negligence
29 causes or contributes to an injury; or

Philips

Freeman
drafted
by Bond

Anderson

MEMORANDUM

Dated: March 2, 1982

Re: HB 332 - Aviation Fuel Refiner's Liability;
Responses to Questions Concerning the Bill

The importance of aviation, both commercial and general, to Alaskan communication and commerce cannot be overstated. It is common knowledge that more air miles per resident are flown in Alaska than in any other state; indeed, aviation is the only mechanism by which modern commerce and communication can be undertaken to the vast majority of Alaskan locations.

1. Marketing Aviation Fuels in Alaska.

In order to fuel the ever growing aviation traffic in Alaska, it has become necessary to develop an enormous marketing system to distribute the relatively few gallons of aviation fuel to many geographically diverse locations across the state. However, because of the increasing exposure to liability from the sale of aviation products, many companies are now removing themselves from the Alaskan market. Due to the relatively low volume, and geographically diverse, aviation fuel market in Alaska, the increased exposure to liability has resulted in a declining incentive to market aviation fuel in the state.

This is particularly true with aviation gasolines, as opposed to jet fuels. For the most part, jet fuels are used in commercial aviation where the volume sales are high,

and the geographical distribution is not as great. Aviation gasoline constitutes a relatively minor portion of the total market for aviation fuels. On the other hand, because of its low volume, the relative multitude of individual sales, and the geographical diversity of the ultimate customers, aviation gasolines account for the greatest exposure to liability in the aviation fuel market.

For example, in 1981, Chevron U.S.A. Inc., the largest marketer of aviation fuels in the state of Alaska, sold a total of 375 million gallons of aviation fuel in the state. Of that total, jet fuel sales accounted for 360 million gallons. Only 15 million gallons of aviation gasoline were sold. As stated before, although aviation gasolines account for only 4% of Chevron's annual aviation fuel sales, these sales provide by far the greatest exposure to liability.

2. Aviation Fuel Refiners - Unprecedented Exposure to Liability.

Aviation fuel refiners are at an unfair disadvantage with respect to the sale of their products as opposed to the sale of other products by other companies. The exposure to liability is much greater than with almost any other product because of the serious consequences of any aviation accident.

The court's development of the strict liability theory for defective products has created a legal situation wherein the refiner is virtually guilty until he proves himself innocent.

Because most refiners are large companies, the Deep Pocket Theory invites plaintiffs' attorneys to join them in actions even where liability is unlikely. Refiners may at times find it more economical to settle a case than spend thousands in defense, even when they believe there is no liability.

Even where the refiner is successful in defending such cases, the court's award of costs and attorneys' fees rarely represents even one-half of the actual expenditures. This, of course, does not even consider the in-house costs of the refiner in investigative and administrative endeavors related to the litigation. In addition, where the court makes a cost award for attorneys' fees and costs incurred in defending such an action, collection of the award is never guaranteed and often is not possible.

Examples of the effect of this increased exposure to liability are not difficult to find in Alaska. In 1980, Texaco quietly withdrew from the aviation fuel market because of the potential liability it faced. This removal prompted a letter from Governor Hammond to Chevron U.S.A. Inc., asking that Chevron do everything possible to remain in the aviation fuel market, and inquiring as to whether there might be any assistance the State of Alaska could render in that regard.

Union Oil Company pulled out of the aviation fuel market in Southeast Alaska sometime ago for the same reason. Union apparently is seriously considering doing the same thing in Southcentral Alaska as a result of the Spernak Airways incident.

In that case, a plane carrying four people crashed on take-off at Merrill Field in Anchorage. It was determined that the cause of the crash was water in the gas lines of the airplane. According to the investigator for the National Transportation Safety Board (NTSB), the source of the water which contaminated the plane's fuel lines was the storage tanks kept by Spernak Airways at Merrill Field. Spernak Airways maintained a \$500,000 general liability policy, and has settled the case for the policy limits. However, in spite of the NTSB's findings that the source of the water was the Spernak storage tanks, Union Oil is currently being sued for damages in the amount of \$5,000,000. While it appears that Union Oil will successfully defend itself in that litigation, it will never fully recover its costs and attorneys' fees in making that defense. As a consequence, Union apparently intends to withdraw from the aviation fuel market in Southcentral Alaska. Chevron has had inquiries from several Union airport dealers asking whether Chevron would supply them with aviation fuels.

3. The Use of Barrels in the Distribution of Aviation Fuel.

In an attempt to reduce its exposure to liability, Chevron has declined to place aviation fuel in used barrels for distribution to the popular aviation market. Chevron continues to market aviation fuels in new barrels only in Alaska, and only as an accommodation to the unique reliance this state has on general aviation in remote areas where the most practical means of supply is by barrel. In all other states, Chevron will not sell aviation fuel in a barrel.

In this regard, it should be noted that there is no such thing as a "sealed barrel". All barrels, whether new or used, are susceptible to moisture contamination particularly when they are stored outside in the widely fluctuating temperatures encountered in Alaska. During such fluctuations, when moisture is present on top of the barrel near the bung hole, moisture can be pulled right through the threads on the bung with the expansion and contraction of the barrel. There is thus no guarantee that uncontaminated, clean, dry fuel purchased in a new barrel will remain so when it is stored improperly. For this reason, it is no longer economically prudent to market aviation fuels in barrels. While Chevron presently continues to do so in Alaska, it may not be economically possible to continue that in the future.

4. Alternate Marketing Options -
A Response to Unreasonable Liability Risks.

It should also be noted that Chevron has implemented a new program in the lower 48 states concerning the sale and distribution of aviation fuels. This program could prove deleterious to the flow of Alaska commerce if implemented in this state.

In the lower 48 states, Chevron will deliver aviation fuel only in 10,000-gallon deliveries and only to its own airport dealers that meet its quality specifications. All other wholesale purchasers must take delivery of such fuels in minimum 10,000-gallon allotments at a Chevron bulk plant when Chevron has certified that the carrying vehicle is appropriate for the transport of aviation fuels.

Chevron has expressed interest in implementing such a policy in Alaska. Under that policy, fuel would be made available to the public only at Chevron airport dealers who have sufficient sales volume to meet the 10,000-gallon minimum delivery requirements. Wholesalers desiring to purchase Chevron aviation products would be able to do so only in minimum deliveries of 10,000 gallons, and only at the bulk plants Chevron operates at Ketchikan, Valdez, Anchorage and Dutch Harbor.

5. House Bill 332 - Part of the Solution.

It is imperative that the State of Alaska take

immediate steps to provide a fair economic climate that would allow the continued distribution of aviation fuels to all areas in the state.

The sole purpose of HB 332 is to create a fair and reasonable business climate for aviation fuel refiners by removing unreasonable liability exposure. This will go a long way toward assuring adequate supplies to remote geographical locations and to individual customers.

The means selected to achieve this objective are carefully tailored to meet the needs that have been stated.

Under HB 332, refiners are still subject to liability where they place fuel directly into aircraft. This is as it should be, since the refiners have total control of the quality of the product up to final delivery.

Except for gross negligence, recklessness or intentional conduct, the refiner is not liable where the fuel is delivered other than directly into an aircraft. The important point to note here is that once title and possession have passed from a refiner, the refiner no longer has control over the integrity of the fuel and should not be held liable therefor.

The essential distinction between aviation fuel and other products for which strict liability is imposed is

that most other products are static in their quality once they have been manufactured. Generally speaking, barring unforeseen events, other products remain in the same form as they were immediately after their manufacture. However, the quality of aviation fuel is always subject to incremental change depending on the quality of the handling thereof. At each stage of the distribution process, contamination is a distinct possibility that it must be carefully guarded against. Fuel that is clean and dry going into a storage tank can come out wet, dirty and/or contaminated depending upon the quality of the storage and the method of handling. Once a refiner has placed aviation fuel in the storage tanks of another person not under the refiner's control, it is unfair to hold the refiner liable for the continued quality and integrity of that fuel.

The benefits of this bill are obvious once the need for it and the means are understood. By reducing the potential liability facing any aviation fuel refiner, the bill will create an economic climate that will allow current suppliers to continue to make wide distribution of aviation fuel and allow others to enter the market.

6. Quality Control Programs Will Remain In Place.

Aviation fuel refiners will not dismantle quality control programs merely because of the passage of this legislation. It should be again emphasized that refiners

are still fully exposed to liability where they fuel planes directly. Thus a dismantling of the quality control program which results in the delivery of contaminated fuel into an aircraft by a refiner would still fully expose the refiner to liability.

Furthermore, even where the deliveries which are not made directly into an aircraft, quality control programs will remain. The dismantling of a quality control program, and the use thereafter of little or no care in the manufacture of aviation fuel, would most likely be held to be "gross negligence" under the bill - i.e., the failure to use even slight care.

7. HB 332 -- Restoring Balance To The Law.

HB 332 re-establishes the balance that has often been lost in the development of products liability law: Each entity in the distribution chain must take responsibility for its actions in handling aviation fuel, and must take responsibility for failure to do so properly. Aviation fuel refiners must continue, as they do now, to insure quality control during the manufacture and distribution of the product by them. Wholesalers and retailers must also take adequate steps to insure the continued integrity of the product during their part of the distribution chain. Finally, airlines and private pilots must continue to handle

fuel in a safe manner and test it for quality before and after each transfer. Only by following such procedures for each fuel transfer can the integrity of aviation fuel be assured. It is for precisely these reasons that HB 332 has been introduced.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 332

Title An act limiting the civil liability of aviation fuel refiners

Requested by Adams

Date 3/31/81

II. FISCAL DETAIL

Agency Affected Division of Insurance

Program Category Affected Public Protection

BRU, Program, Or Subprogram(s) Affected Division of Insurance

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE February 1, 1982

PREPARED BY

Kenneth C. Moore
Kenneth C. Moore, Div. of Insurance

AGENCY Commerce & Economic Development

PHONE 2515

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

BS-001 (Rev. 12/81)

AMENDED TITLE:

AN ACT LIMITING THE CIVIL LIABILITY OF AVIATION FUEL REFINERS;
AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: ADAMS.

CO-SPONSORS: HAUGEN, BEIRNE.

CURRENT STATUS: 2/19/82 IN (H) RULES

HB 332 HOUSE ACTION

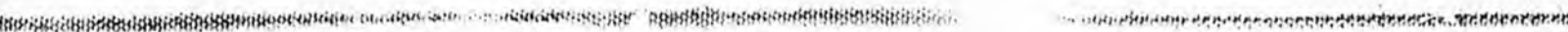
DATE SEQ PAGE

LEGISLATIVE ACTION

07/13/81	01	0548
02/19/82	02	0557
02/19/82	03	0557

FIRST READING -- COMMITTEE REPORTS
 JUD -- CS03, NR02
 ZERO F/NOTE HSE SUPPL #17
 RULES
 RULES

*** ** * * * * *





MUNZ
NORTHERN

AIRLINES, INC.

P. O. BOX 790 NOME, ALASKA 99762 (907) 443-2215

April 1, 1982

Rep. John G. Fuller
Pouch V
Juneau, Alaska 99811

Re: HB332
Fuel Refiners Liability

Dear Jack,

I would ask that you support any bill that would remove a refiner from financial attack when he has had no control in keeping aviation fuel clean.

As an Airport fuel dealer I readily admit that all of the fuel received into our trucks at a bulk plant cease to be under the control of Chevron U.S.A. In fact, Federal Law prohibits Chevron from telling me how to run my business. It follows that the burdon for proper storage and handling is mine, the dealer. This responsibility cannot and is not shared by Chevron in any way.

Such a bill should, in fairness pass with no objections. Further, considering that the few suppliers may well retreat from the market, leaving Alaska grounded, common sense would dictate support.

I hope that you agree with me and argue strongly for passage of a realistic act.

Thanks and best regards,

MUNZ NORTHERN AIRLINES, INC.

Richard F. Galleher
President & General Manager

RFG:mpc

H B

3 4 4

1. technical: Al didn't announce finance hearing - his schedule only said "bills in committee"

2. votes

3. potential amendments:

4. attendance:

5. fiscal note \$ 2.7 million; sk of Adams

6. Anderson wants the full appropriations bill

7. MA

8. carrier: Anderson

COMMITTEE REPORT
HOUSE

1/29
Rules

4/6/81

FURTHER:

(11)

Date: 1/28/82

Mr. Speaker:

The Committee on FINANCE has had HB 344

"An Act making a special appropriation to the Department of Public Safety for a computerized fingerprint system; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 344 (FIN) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation 64.1 1/22/82
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

John A. Montgomery

Thurgood Marshall

J.P. Bethune

Sam Hill

James H. Beal Cuddy

Jack Fuller Chubbuck

Robert P. Adams Fuller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

~~Robert P. Adams~~

James H. Beal no rec

Robert P. Adams
CHAIRMAN

COMMITTEE REPORT

HOUSE

4/6

FURTHER: FINANCE

3/16/81

(7)

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 344

"An Act making a special appropriation to the Department of Public Safety for a computerized fingerprint system; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature] DO PASS

[Signature]

[Signature]

[Signature]

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST CSHB 344 (Finance) (Page 193)
 Bill/Resolution No. _____
 Title Spec. Approp. for a computerized fingerprint system
 Requested by House Finance Date 1/22/82

II. FISCAL DETAIL
 Agency Affected Department of Public Safety
 Program Category Affected _____
 BRU, Program, Or Subprogram(s) Affected Laboratory Services
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES			105.3	115.8	127.4	140.1
200 TRAVEL		20.6	21.2	2.2	2.4	2.7
300 CONTRACTUAL		38.2	480.4	103.5	103.9	104.3
400 COMMODITIES		5.3	4.5	0.3	10.2	11.2
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		64.1	611.4	230.8	243.9	258.3

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		64.1	611.4	230.8	243.9	258.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME			2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The proposed legislation would create the Automated Fingerprint Identification Network which would utilize a Rockwell 250 S Printak Central System in AST Headquarters with a Read/Edit Sub-system in the Anchorage Police Department.

In acquiring this tested, proved and highly reliable system, law enforcement agencies can automatically search their already existing extensive fingerprint files to locate matches and print out identities of respondents. Search time will be reduced and match rate increased by at least 15%.

The initial cost of ~~\$5,042,200~~ ^{2,718,200} as provided by this bill would provide all costs of the equipment and its installation through the end of FY 83 (see attached schedule "Capital Project Cost Estimate"). The FY 83 - FY 87 cost noted above is the expected operating cost for these years including the cost for two positions.

IV. DATE 01/22/82 PREPARED BY Robert F. Schroeder
 AGENCY Legislative Finance Division
 PHONE 465-3795

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

AUTOMATED FINGERPRINT IDENTIFICATION NETWORK
OPERATING COST ESTIMATE

Page 273

<u>CODE</u>	<u>DESCRIPTION</u>	<u>FY 83</u>	<u>FY 84</u>
100	Personal Services		
	111 Reg. Comp. (2x19AGGU)		74.9
	121 Overtime (180 hrs. X 26.19)		5.2
	121 Shift Differential (19AX3.75)		1.4
	Subtotal		<u>81.5</u>
	VAR. Benefits (17.67%)		14.4
	184 FICA (6.65%)		5.4
	185 Group Medical (1800X2)		4.0
	100 TOTALS		<u>105.3</u>
200	Travel and Moving		
	211 In State Travel	2.4	
	212 In State Per Diem	3.2	
	223 Out of State Travel	5.0	6.8
	224 Out of State Per Diem	5.3	14.4
	291 Transportation	2.5	
	292 Technician Per Diem	2.2	
	200 TOTALS	<u>20.6</u>	<u>21.2</u>
300	Contractual Services		
	311 Phone	.7	5.1
	314 Postage		.4
	326 Subscription & Info.		.2
	349 Main. Contract & File Conver.	22.3	424.7
	*389 Training	3.6	50.0
	394 Conference Registration	.3	
	397 Freight	1.3	
	300 TOTALS	<u>38.2</u>	<u>480.4</u>
400	Supplies and Materials		
	425 Janitorial Supplies	.9	.9
	481 Stationary & Supplies	4.4	
	483 Computer Commodities		3.6
	400 TOTALS	<u>5.3</u>	<u>4.5</u>
	PROJECT TOTALS	<u>64.1</u>	<u>611.4</u>

*Contractor training of state employee to maintain the system.

AUTOMATED FINGERPRINT IDENTIFICATION NETWORK
CAPITAL PROJECT COST ESTIMATE

Page 383

250S Central System - unit cost including air shipment	\$1,700.0
Latent print subsystems - 1 each in Anchorage, Fairbanks & Juneau at \$124,000 per unit	372.0
Installation cost	200.0
Site preparation	177.4
Spare parts inventory	207.3
Fingerprint file conversion	<u>61.5</u>
CAPITAL PROJECT TOTAL	\$2,718.2

HB 344(fin) by Anderson et al. Special appropriation to the Dept. of Public Safety for computerized fingerprint system. Finance report was all do pass except Cotten. Judiciary report last April was unanimous do pass. Was on Coalition's priority list last spring; money was put in HB 297 but the FCC took it out. \$2,718,200 this year (includes capital but no operating); down from \$ 4 million last year

OK to calendar

✓ Al didn't announce hearing - weekly schedule was for "bills in committee"

Anderson has said he will carry
Hoeford: Senate won't go for it anyway, so
\$2.7 fiscal note doesn't really matter

Al said the 2.1 fiscal note was okay with him

"Binkworth doesn't like
Anderson doesn't like
the bill, so it doesn't
matter"

H

B

357

COMMITTEE REPORT

HOUSE

FURTHER:

(5)

Date: April 15, 1982

Mr. Speaker:

The Committee on RULES has had HB 357

"An Act relating to Adult Public Assistance."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 357 (1/1) same title
 new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

CHAIRMAN

COMMITTEE REPORT

3/26

HOUSE

FURTHER: FINANCE

3/18/81

(5)

Date: 3/25/82

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had HB 357

"An Act relating to adult public assistance."

under consideration and reports it back as follows:

[] do pass [] do not pass

[] do pass with attached amendments(s)

[x] replace with CS for HB 357 (New) [x] same title [] new title

and recommends

[] AND attaches a "Letter of Intent" [] New Fiscal Note as follows. (x) With Zero Fiscal Note to be attached to Bill

[x] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Mike Beane, ch

MEMBERS HAVING OTHER RECOMMENDATIONS:

Terrence Minter - no rec.
Beth City - no rec
H. M. ... No Rec

Mike Beane
CHAIRMAN

COMMITTEE REPORT

HOUSE

4/8 Rules

FURTHER:

(11)

3/26/82

Date: 4-7-82

Mr. Speaker:

The Committee on FINANCE has had HB 357

"An Act relating to adult public assistance."

under consideration and ~~{a-majority-of-the-committee}~~-~~{the-committee}~~-- reports it back with the following recommendations:

do pass do not pass

do pass with attached amendments(s)

replace with CS for HB 357 (FIN) same title new title

and recommends do pass

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Handwritten signatures: Shultz, James, David, J. J. ...]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten: R. B. ... No Rec ...]

[Handwritten signature]
CHAIRMAN

HOUSE

FURTHER: FINANCE

3/18/81

(5)

Date: 3/5/82

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had HB 357

"An Act relating to adult public assistance."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HO 357 (New) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back ^{as follows} without recommendation With Zero Fiscal Note to be attached to Bill
- referred to the _____ Committee

MEMBERS SIGNING DO PASS

Mike Benson ch

MEMBERS HAVING OTHER RECOMMENDATIONS:

Terrell - no rec.
Boyd - no rec.
Harold No Rec

John Benson
CHAIRMAN

FURTHER:

(11)

3/26/82

Date: 4-7-82

Mr. Speaker:

The Committee on FINANCE has had HB 357

"An Act relating to adult public assistance."

under consideration and ~~(a majority of the committee)~~ ~~(the committee)~~ reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 357 (FIN) same title new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Handwritten signatures]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signature] No Rec

[Handwritten signature]

 CHAIRMAN

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 357

Title An Act relating to adult public assistance

Requested by Rules, by request

Date March 12, 1981

II. FISCAL DETAIL

Agency Affected Health & Social Services

Program Category Affected Social & Economic Assistance Programs Aged/General Population

BRU, Program, or Subprogram(s) Affected (OAA, Aid to Blind, Aid to Disabled)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		0	0	0	0	0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		0	0	0	0	0
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0	0	0	0	0
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This Bill is a "housekeeping" measure; it proposes revising Adult Public Assistance programs to better reflect current program policies and operations. It will have no measureable effect on the numbers of persons receiving assistance nor upon the amount of assistance they receive.

IV. DATE

3/12/81

PREPARED BY

John H. Lumb

AGENCY

DISS, OAA

PHONE

3147

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Dr. Hubbard 3/12/81

I. REQUEST

Bill/Resolution No. House Bill No. 357
 Title An Act Relating to Adult Public Assistance
 Requested by Rules, by Request Date 4/1/81

II. FISCAL DETAIL

Agency Affected Health & Social Services
 Program Category Affected Social and Economic Assistance for the Elderly
 BRU, Program, or Subprogram(s) Affected Old Age Assistance

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GPANTS, CLAIMS, ETC.		0				
TOTAL		0				

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

HB No. 357 will have no fiscal impact in FY82 or following fiscal years.

IV. DATE 3/31/81 PREPARED BY [Signature]
 AGENCY DHSS OPA
 PHONE 465-3347

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) M&B Approval [Signature] Date 4/1/81

STATE OF ALASKA

JAY S. HAMMONG, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC ASSISTANCE

POUCH H-07
JUNEAU, ALASKA 99811

PHONE: (907) 465-3355

DOCUMENT NO. 139-82

April 12, 1982

The Honorable Albert Adams
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Adams:

During testimony before House Finance on Wednesday, April 17, I recommended several modifications to Section 6 of CSHR357 (Finance) which were not adopted prior to passage of the bill from the committee. The changes needed are as follows:

- Page 2, Line 12 - Delete wording "Unless otherwise provided by law,".
- Page 2, Line 13 - Delete word "local" preceding "government".
- Page 2, Line 23 - Add wording "with a person or local government" immediately after the phrase "under this section".

Department of Law legal counsel advises me that these changes are crucial for these reasons:

- (1) Line 12: Make it clear that the Department can enter into service delivery contracts. The wording "unless otherwise provided by law" sets up a potential catch 22 where the Department might be prevented from contracting due to the specificity of language found elsewhere in the present statutes calling for the Department to perform certain functions.
- (2) Line 13: Make it clear that the Department may contract with federal agencies to deliver departmental services. Current wording of CSHB357 restricts this flexibility to local governments only. Of particular concern is our intent to transfer the Adult Public Assistance programs to the federal government during FY83.
- (3) Line 23: Make it clear the Department may contract directly with the federal government to deliver departmental services without publishing a request for proposals. Where the Department might exercise this option, "Request for Proposals" would be inappropriate because there is only one federal government. Appropriate federal and state staff would simply negotiate the terms of any such contractual arrangement under the legal guidance of the Department of Law.

Representative Adams

-2-

April 12, 1982

The Department of Health and Social Services and the Department of Law continue to support the need for the above referenced changes. Any assistance you may be able to offer in this regard will be greatly appreciated.

Sincerely,



Rod Betit
Director

cc: Thomas H. Robertson,
Assistant Attorney General

Allen Korhonen,
Deputy Commissioner

Alice Farnan

HB 357

March 18, 1981

The Honorable Jim Duncan
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which would revise and consolidate existing statutes dealing with adult public assistance. The primary purpose of this bill is to recognize the existence of supplemental security income (SSI) and the elimination of separate aged, blind, and disabled programs on the federal level. (See 42 U.S.C. 1381 et seq.; and P.L. 92-603, sec. 303(a) and (b), which repealed 42 U.S.C. 301 et seq. [old age], 1201 et seq. [blind], and 1351 et seq. [disabled].)

This bill would eliminate duplication and make incidental corrections and other technical improvements. This should increase clarity, efficiency of administration, and the ease of future amendments. Substantive changes are minimal. This bill would not alter the amounts to be paid recipients of adult public assistance.

A section-by-section description is attached for your convenience.

Sincerely,

JSH

Jay S. Hammond
Governor

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

POUCH H 01
 JUNEAU, ALASKA 99811
 PHONE: 465-3030

March 17, 1982

DOCUMENT NO. 92-82

The Honorable Jalmar M. Kerttula
 Senator
 Senate President
 Alaska State Legislature
 Pouch V
 Juneau, AK 99811

Dear Senator Kerttula:

COST OF CARE RATE HEARINGS
REPORT TO THE LEGISLATURE

Alaska Statutes, 47.05.010 (14), mandate that a public meeting be held by the Department of Health and Social Services "...in February to review, study and propose the necessary levels of care and the rates it [the department] will pay to anyone for the services required during the succeeding year; before final adoption by the department, the proposed levels of care and the rates of payment shall be reviewed by the Legislature annually while in session..."

The meetings to conform to the statutes were held during February, 1982, as required. Testimony was presented on both the rates of payments and the levels of care during the hearing process.

Attachment 1 predicts FY 83 institutional child care daily rates within Alaska computed based on the FY 82 provisional rates which have been adjusted upward by 8% to compensate for actual costs incurred above the provisional rates for the first half of FY 82. The adjusted FY 82 provisional rates have then been increased by 11% to include the minimum salary/COLA increase recommended by the majority of providers at the meeting in February. (Some providers stated their belief that a salary/COLA increase for FY 83 of as high as 14% was warranted.) If the institutional child care rates shown in Attachment 1 are approved by the Legislature, the FY 83 budget is underfunded by \$2,363,380.

INSTITUTIONAL PAYMENTS REQUESTED BY IN-STATE PROVIDERS
AT HEARINGS

Estimated Cost	\$13,235,806
Governor's Budget	10,872,426
Underfunding	\$ 2,363,380

At the time the FY 83 budget was submitted, it was noted that revisions may be needed following the statutorily required hearings.

Attachment 2 estimates FY 83 institutional child care daily rates within Alaska based on the FY 82 provisional rates adjusted upward by 8% to compensate for the actual costs incurred above the FY 82 provisional rates during the first half of FY 82. (Note: this estimate does not include the 11% minimum salary/COLA increase recommended by providers). If the institutional child care rates shown in Attachment 2 are approved by the Legislature, the FY 83 budget is underfunded by \$1,051,342.

IN-STATE INSTITUTIONAL CARE COSTS AS BUDGETED FOR FY 83
BY THE DEPARTMENT VERSUS PROJECTION FOR FY 83
BASED ON FY 82 ACTUAL COSTS

Estimated Cost	\$11,923,767
Governor's Budget	10,872,426
Underfunding	<u>\$ 1,051,342</u>

The Department prepared the FY 83 budget request for institutional child care within the State with a 5% increment for allowable costs not covered in the provisional FY 82 rates plus a 6% COLA. The actual average daily rate for the first six months of FY 82 was higher than expected because the adjustment for actual allowable costs exceeded the 1.8% budgeted for FY 82 by 13.8%. (The FY 82 base rate of \$109.96 was 15.6% over the FY 81 rate of \$84.84). Attachment 3 provides additional detail on rate increases for the period from FY 79 through the first half of FY 82. This attachment also shows that there has been an increase of about \$48.00 in the average daily institutional child care rate actually paid over the years from FY 79 through the first half of FY 82.

Under either of the funding alternatives shown above for FY 83, additional funds would be required. If the appropriation is not revised, the department will not be able to purchase services from any new institution or program not now in existence or provide increases in rates beyond FY 82 levels and may not be able to continue purchasing services from all institutions currently providing child care.

Attachment 4 portrays graphically that there has been an increase of about 78% in the average daily institutional child care rate actually paid over the period from FY 79 through the first half of FY 82. Since 264 full-time equivalent (FTE) years of child care will be purchased during FY 83 at a total cost of \$13,235,800, that equates to approximately \$50,000 a year per FTE.

Full allowable expenditures incurred for FY 83 must be paid to child care institutions unless the Legislature repeals the full-cost-of-care statute or amends it to permit this department to obtain and accept, via the State's contracting process, the most cost effective, professionally acceptable, proposals for providing institutional child care. Under the State's

competitive contracting process for obtaining professional services it should be possible to effect a degree of cost containment with respect to the escalating costs in this program area.

FOSTER CARE RATES

Foster Care rates were developed and presented in the FY 82 budget assuming an 8% change in the Consumer Price Index for an estimated average daily rate of \$17.46. Attachment 5 displays the budgeted versus projected rates for foster care for FY 83 and shows that the amount budgeted is adequate.

FOSTER CARE COSTS

Governor's Budget	\$3,371,914
Estimated Cost	3,339,400
Balance	<u>\$ 32,514</u>

Sincerely,



Helen D. Beirne
Commissioner

Enclosures

PROJECTED FINANCING PLAN
FULL COST OF INSTITUTIONAL CHILD CARE FOR FY 83

PROVIDER	FY 82 PROVISIONAL RATE	+	ALLOW EXP. ADJUST. 8%	+	COLA INCREASE 11%	=	FY 83 PROPOSED RATE	X	STATE CENSUS	=	ANNUAL COST
ALASKA CHILDRENS SER.											
RECEIVING HOMES	\$149.85		11.99		17.81		179.65		5,146		\$ 924,479
AQUARIUS HOUSE	107.60		8.61		12.79		129.00		1,825		235,425
COLLETTI HOUSE	117.51		9.40		13.96		140.87		1,679		236,521
NORTH STAR	103.55		8.29		12.31		124.15		1,679		208,448
RABBIT CREEK	166.40		13.32		19.77		199.49		2,957		589,892
JESSE LEE HOME	165.46		13.24		19.66		198.36		13,323		2,642,750
BETHEL GROUP HOME	59.06		4.73		7.02		70.81		1,351		95,664
BETHEL REC. HOME	75.52		6.05		8.98		90.55		1,314		118,993
COVENANT HOUSE	51.16		4.10		6.08		61.34		256		15,703
HILLTOP HOME	85.53		6.85		10.17		102.55		5,986		613,864
JUNEAU RECEIVING	105.17		8.50		12.62		127.29		4,271		543,656
KENAI PENN. COMM.	91.74		7.34		10.90		109.98		2,519		277,040
KETCHIKAN											
TEEN HOME I	74.26		5.94		8.83		89.03		3,030		269,761
TEEN HOME II	81.61		6.53		9.70		97.84		2,446		239,317
KODIAK BAPTIST MISS.	61.61		4.93		7.32		73.86		6,242		461,034
HOME RECEIVING	116.97		9.36		13.90		140.23		1,241		174,025
NORTH SLOPE BOROUGH	168.35		13.47		20.00		201.82		2,372		478,717
NORTH STAR-DOT LAKE	62.25		4.98		7.40		74.63		4,234		315,983
PRESEYTERIAN HOSP. & "R" HOUSE	111.98		8.96		13.31		134.25		8,359		1,122,196
BOOTH MEMORIAL HOME	146.90		11.76		17.46		176.12		4,818		848,546
SITKA RECEIVING	40.66		3.26		4.84		48.76		1,679		81,868
TURNING POINT RANCH	105.37		8.43		12.52		126.32		13,140		1,659,345
ST. JUDE CENTER	72.33		5.79		8.60		86.72		73		6,331
KETCHIKAN INTENSIVE	152.56		12.21		18.13		182.90		1,460		257,034
KOTZEBU - NEW	168.35		13.47		20.00		201.82		1,825		368,322
AK BAPTIST FAM. CTR.	117.02		9.37		13.91		140.30		3,139		440,402
									<u>96,364</u>		<u>\$13,235,806</u>
							<u>\$137.36 CPU</u>		<u>264 FTE</u>		<u>\$13,235,806</u>

PROJECTED PAYMENTS FOR FULL COST OF
INSTUTIONAL CHILD CARE FOR FY 83 EXCLUDING COLA

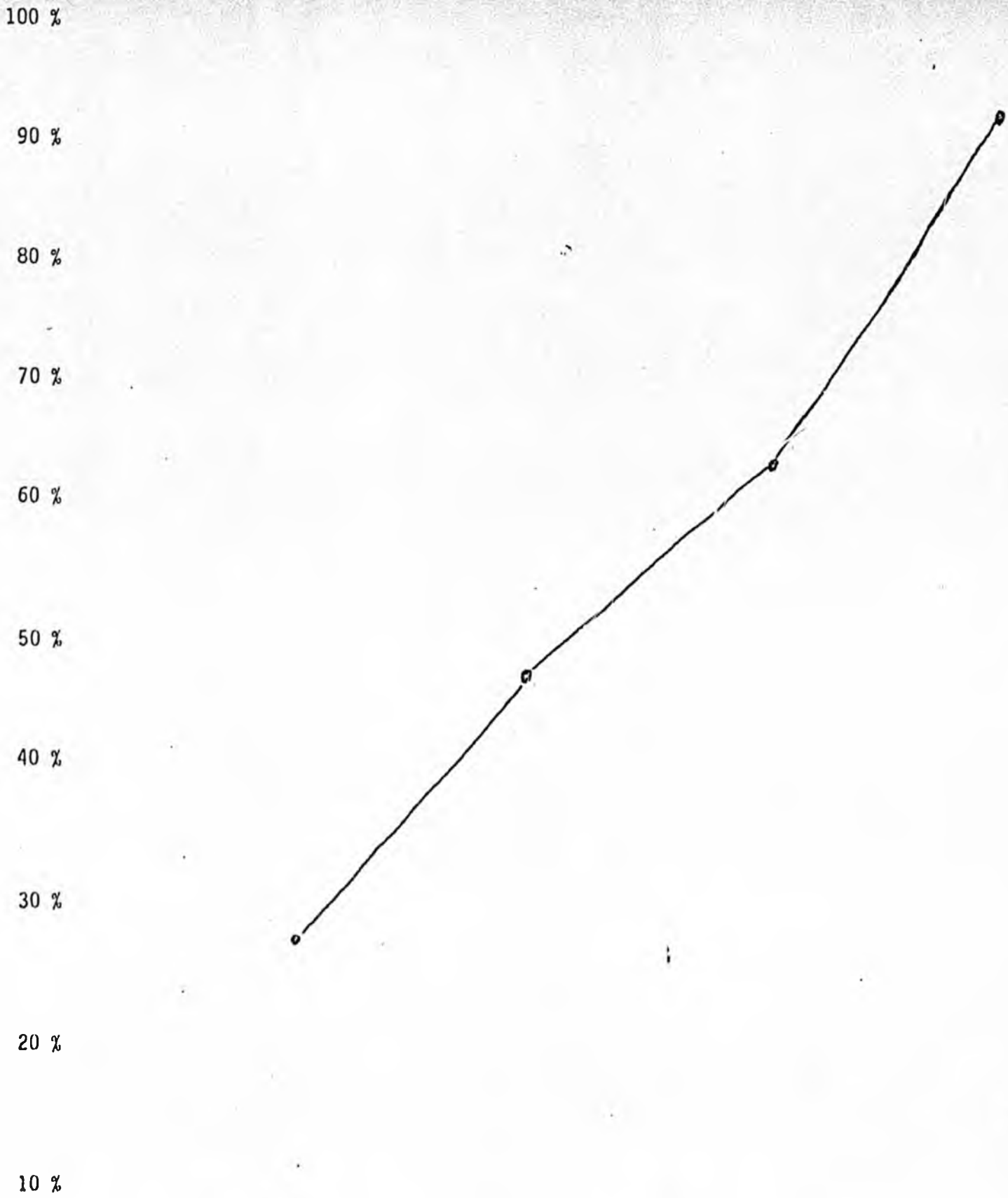
<u>PROVIDER</u>	<u>FY 82 PROVISIONAL RATE</u>	<u>+</u>	<u>ALLOW EXP. ADJUST. 8%</u>	<u>+</u>	<u>COLA INCREASE -0-%</u>	<u>=</u>	<u>FY 83 PROPOSED RATE</u>	<u>X</u>	<u>STATE CENSUS</u>	<u>=</u>	<u>ANNUAL COST</u>
ALASKA CHILDRENS SER. RECEIVING HOMES	\$149.85		11.99		-0-		161.84		5,146		\$ 832,829
AQUARIUS HOUSE	107.60		8.61		-0-		116.21		1,825		212,083
COLLETTI HOUSE	117.51		9.40		-0-		126.91		1,679		213,082
NORTH STAR	103.55		8.29		-0-		111.84		1,679		187,779
RABBIT CREEK	166.40		13.32		-0-		179.72		2,957		531,432
JESSE LEE HOME	165.46		13.24		-0-		178.70		13,323		2,380,820
BETHEL GROUP HOME	59.06		4.73		-0-		63.79		1,351		85,180
BETHEL REC. HOME	75.52		6.05		-0-		81.57		1,314		107,183
COVENANT HOUSE	51.16		4.10		-0-		55.26		256		14,147
HILLTOP HOME	85.53		6.85		-0-		92.38		5,986		552,987
JUNEAU RECEIVING	106.17		8.50		-0-		114.67		4,271		489,756
KENAI PENN. COMM. KETCHIKAN	91.74		7.34		-0-		99.08		2,519		249,583
TEEN HOME I	74.26		5.94		-0-		80.20		3,030		243,006
TEEN HOME II	81.61		6.53		-0-		88.14		2,446		215,590
KODIAK BAPTIST MISS.	61.61		4.93		-0-		66.54		6,242		415,343
NOME RECEIVING	116.97		9.36		-0-		126.33		1,241		156,776
NORTH SLOPE BOROUGH	168.35		13.47		-0-		181.82		2,372		431,277
NORTH STAR-DOT LAKE	62.25		4.98		-0-		67.23		4,234		284,652
PRESEYTERIAN HOSP. & "R" HOUSE	111.98		8.96		-0-		120.94		8,359		1,010,937
BOOTH MEMORIAL HOME	146.90		11.76		-0-		158.66		4,818		764,424
SITKA RECEIVING	40.66		3.26		-0-		43.92		1,679		73,742
TURNING POINT RANCH	105.37		8.43		-0-		113.80		13,140		1,495,332
ST. JUDE CENTER	72.33		5.79		-0-		78.12		73		5,703
KETCHIKAN INTENSIVE	152.56		12.21		-0-		164.77		1,460		240,554
KOTZEBUE - NEW	168.35		13.47		-0-		181.82		1,825		331,822
AK BAPTIST FAM. CTR.	117.02		9.37		-0-		126.39		3,139		396,728
									96,364		\$11,923,767
							<u>\$123.74 CPU</u>		<u>264 FTE</u>		<u>\$11,923,767</u>

COMPARISONS OF DEPARTMENTAL ALLOWANCES FOR IN STATE CHILD CARE INSTITUTIONAL INCREASES
AND ACTUAL INSTITUTIONAL RATE INCREASES OVER DEPARTMENTAL ALLOWANCES

AVERAGE DAILY RATE INCREASES: FISCAL YEAR 1979 - 1982 (SIX MONTHS)

FISCAL YEAR	DEPARTMENTAL DECISIONS	ACTUAL RATE INCREASE	INSTITUTIONAL EXCESS RATE INCREASE OVER DEPARTMENTAL PERCENTAGE ALLOWANCES	AVERAGE DAILY RATES (ALL INSTITUTIONS)
1979	5% SALARY INCREASE 6% COST-OF-LIVING INCREASE 5.4% AVERAGE INCREASE	28.2%	+22.8%	\$ 61.95
1980	7% SALARY INCREASE 10% OTHER EXPENSE INCREASE 8.5% AVERAGE INCREASE	20.3%	+11.8%	74.52
1981	12% ACROSS-ALL-EXPENSES INCREASE INCLUDING SALARIES	13.8%	+ 1.8%	84.84
1982 - (6 MONTHS) JULY 1, 1981 - DEC 31, 81	14% ACCROSS-ALL-EXPENSES INCREASE INCLUDING SALARIES	29.6%	+15.6%	109.96

FY 1979 - 1982
COMBINED and CUMULATIVE



DAILY RATE	$\frac{\$61.95}{1979}$	$\frac{\$74.52}{1980}$	$\frac{\$84.84}{1981}$	$\frac{\$109.96}{1982}$ (First Half)
AVERAGE (ALL INSTITUTIONS)				

CLIENT AGE

<u>REGION</u>	<u>4 & UNDER</u>	<u>5 THRU 11</u>	<u>12 & OVER</u>
SOUTHCENTRAL	12.50	13.83	16.52
NORTHERN	14.36	15.88	18.97
SOUTHEASTERN	12.50	13.83	16.52
WESTERN	16.55	13.30	21.86
NORTHWESTERN (Includes Barrow)	17.14	13.96	22.65
SOUTHERN	12.50	13.83	16.52

MEMORANDUM

State of Alaska

TO: Commissioner Helen D. Beime
Department of Health and Social
Services

DATE: March 11, 1982

FILE NO:

TELEPHONE NO: 465-2200

FROM: Robert L. Rehfeld *RLR*
Hearing Officer
Department of Administration

SUBJECT: Alaska Childrens
Services (ACS) vs.
Department of Health
& Social Services -
Appeal of Disapproval
Expenditures

Attorneys for Alaska Childrens Services (ACS) have given notice that ACS is appealing your decision to disallow certain costs claimed by ACS for Fiscal Years 1978 and 1979 for the purpose of computing the purchase of services rate for the following years. The claim is submitted to the Department of Administration under AS 44.77.020.

In accordance with AS 44.77.020 this department is charged with reviewing the merits of a disallowed claim and shall make a decision to affirm, modify, or reverse the decision of the Officer who denied the claim under AS 44.77.010.

Upon receipt of this notice, you are requested to transmit to the Department of Administration all papers and memoranda which support your decision to deny the claim of ACS.

At a mutually agreed upon date, a hearing will be scheduled. I will be contacting you in the near future to set a time and place for the hearing.

RLR/mjc



FULL COST OF CARE

§ 47.37.270 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.37.270

Sec. 47.37.270. Definitions. In this chapter

(1) "alcoholic" means a person who habitually lacks self-control in using alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered, or his social or economic function is substantially disrupted;

(2) "approved private treatment facility" means a private agency meeting the standards prescribed in § 140(a) of this chapter and approved under § 140(c) of this chapter;

(3) "approved public treatment facility" means a treatment agency operating under the direction and control of the office or providing treatment under this chapter through a contract with the office under § 130(g) of this chapter and meeting the standards prescribed in § 140(a) of this chapter and approved under § 140(c) of this chapter;

(4) "commissioner" means the commissioner of health and social services;

(5) "coordinator" means the coordinator of the office of alcoholism;

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

(7) "emergency service patrol" means a patrol established under § 230 of this chapter;

(8) "incapacitated by alcohol" means a person who is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment, as evidenced objectively by extreme physical debilitation, physical harm or threats of harm to others or chronic inability to hold regular employment;

(9) "incompetent person" means a person who has been adjudged incompetent by the appropriate court;

(10) "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol;

(11) "office" means the office of alcoholism within the Department of Health and Social Services;

(12) "treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care which may be extended to alcoholics and intoxicated persons, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling. (§ 1 ch 207 SIA 1972)

Quoted in *Peter v. State*, Sup. Ct. Op. No. 1112 (File No. 2185), 531 P.2d 1263 (1975).

Chapter 40. Purchase of Services.

Section	Section
10. Purchase of services	50. Services
20. Licensing and supervision	60, 70. [Repealed]
30. Required accounting procedures	80. Definitions
40. Determination of full cost of services	

Sec. 47.40.010. Purchase of services. (a) When the department purchases services for persons for whom the state has assumed responsibility under the laws of the state, the department shall

- (1) adopt regulations establishing the levels of care to be provided;
- (2) determine the rates of payment for the full cost of services required;
- (3) pay all expenses related directly to the full cost of services at the levels of care required;
- (4) make the placement of persons in accordance with the levels of care provided for in the regulations.

(b) Services of jails and other penal institutions may not be included in services purchased by the state in this chapter. (§ 1 ch 136 SLA 1970)

Sec. 47.40.020. Licensing and supervision. Anyone providing services which are purchased by the department under this chapter shall, if required by the department, be licensed and supervised in the same manner as boarding homes, foster homes and other institutions as provided for in AS 47.35.010 — 47.35.080. (§ 1 ch 136 SLA 1970)

Sec. 47.40.030. Required accounting procedures. Anyone who solicits or receives funds from the department for the cost of services provided under this chapter shall

- (1) meet accepted standards of fiscal accountability for public funds and shall, upon request, submit a complete financial statement by an independent, certified public accountant to the department and to the division of legislative audit;
- (2) upon request before the meetings provided for in AS 47.05.010 (14), demonstrate the actual cost of services offered and cost accounting procedures as provided for by the department;
- (3) upon request, furnish the division of legislative audit all financial information, books, records, and accounts pertaining to services paid for under this chapter. (§ 1 ch 136 SLA 1970)

Sec. 47.40.040. Determination of full cost of services. (a) In this chapter, "full cost" of services shall be determined by the per person, per day cost in the preceding fiscal year plus a proportionate share of anticipated cost of living and staff salary increment increases for the fiscal year for which the full cost of services, determined to be necessary by the department, is being determined. Child care costs for foster homes shall be computed in the same manner as for child care and nursing home institutions except that no salary costs may be considered.

- (b) Full cost of services does not include the following:
- (1) expenses, including salaries and fees, incurred in raising funds;
 - (2) funds expended for construction, major equipment and other capital expenditures;
 - (3) depreciation and replacement costs of, and costs of additions to, major property and equipment;
 - (4) religious training and education; and

§ 47.40.050 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.40.080

(5) services provided which are substandard to, or exceed, the requirements of the department. (§ 1 ch 136 SLA 1970)

Sec. 47.40.050. Services. When determining the levels of service to be required the department shall consider program services as outlined within the Catalogue of Functional or Program Service Categories published by the United Funds and Councils of America, September 1967. (§ 1 ch 136 SLA 1970)

Sec. 47.40.060. Temporary placement.

Repealed by § 1 ch 210 SLA 1970.

Editor's note. — The repealed section, which never took effect, derived from § 1, ch. 136, SLA 1970, and stated: "Temporary placement. (a) When anyone places a person in a borough, city, community or private hospital, institution, or agency pending establishment of state responsibility for his care, the department is not responsible for the cost of services purchased until the department officially

assumes responsibility for his care as provided for under the laws of the state.

(b) When the department temporarily places a person in a borough, city, community or private hospital, institution, or agency pending the determination of its responsibility it shall pay the actual cost of the services provided rather than the level authorized by regulation." See 1970 Senate Journal, p. 1060.

Sec. 47.40.070. Permanent placement.

Repealed by § 1 ch 210 SLA 1970.

Editor's note. — The repealed section, which never took effect, derived from § 1, ch. 136, SLA 1970, and stated: "Permanent placement. When the department places a person for whom it has assumed responsibility in a borough, city, community or private hospital, institution, or agency it shall, when offered, purchase

a level of care the department considers necessary to provide that person with reasonable rehabilitation services over and above the established level of care supplying ordinary safety, comfort and general welfare." See 1970 Senate Journal, p. 1060.

Sec. 47.40.080. Definitions. In this chapter

(1) "anyone" means any person, city, organized borough and private or voluntary institution or agency;

(2) "services" means family, child welfare and nonprofit nursing home services but does not include health, hospital, profit-making nursing homes or medical services;

(3) "department" means the Department of Health and Social Services. (§ 1 ch 136 SLA 1970; am § 2 ch 210 SLA 1970; am § 55 ch 71 SLA 1972)

Effect of amendment. — The 1972 amendment added paragraph (3).

report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Legislative committee report. — For

465-3030

DOCUMENT NO. 122-82

March 31, 1982

The Honorable John Fuller
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Fuller:

You have requested suggestions for language modifying AS 47.40, the "full cost of care" statute, in order to enable the Department to accommodate the reduction of \$2 million made by the House Finance Committee in the institutional care component of the Division of Family and Youth Services' budget.

At the onset, I would like to emphasize that statutory change will not enable us to approach a FY 1982 level of service in FY 1983 in the face of a \$2 million budget cut. The figure suggested by the Department was \$943,700. At the lower level of funding, it will be necessary to curtail placements to a significant degree and, in effect, place children who would be better served in an institutional setting in other types of care. We anticipate problems in finding alternative placements because of the nature of the juveniles who are usually placed in institutions.

However, regardless of the level of budget reduction, there are two approaches to the full cost of care statute which would help to control the costs of this program. The first, and the one the Department prefers, is a repeal of AS 47.40 in its entirety. The language necessary to accomplish this would simply be "AS 47.40 is repealed". The Department would then attempt to purchase services through a contracting mechanism for which there is existing authority.

We have heard that there may be a lack of support in the Legislature for complete repeal of the statute and also that certain of the providers may refuse to contract at a rate affordable with a significantly reduced appropriation. However, we also understand that residential care providers in Bethel, Juneau and Nome have indicated acceptance of repeal.

A second approach is amendment of the statute. At a minimum, an amendment would have to provide for exclusion of donations, other grant income or other sources of supplemental funds for the calculation of full cost of care. Some suggested language has been drafted by the President of the Residential Child

March 31, 1982

Care Association and a copy is enclosed. We understand that such an amendment is under consideration in the Senate Finance Committee and may be included as part of SB 651. We have not seen the actual language which may be adopted.

While we would prefer repeal, we could accept an amendment excluding other income in calculating cost. Since we need some mechanism for cost control of this program, we hope that a modification can be achieved this session. It would appear to be a matter of political judgement as to which alternative is achievable.

If you need additional information, please contact John Pugh, Director of the Division of Family and Youth Services, at 465-3170.

Sincerely,



Helen D. Beirne
Commissioner

Enclosure

HDB:DFT/j1

CS for Senate Bill No. 651 (HESS) is presently in Senate Finance. This new section relating to other sources of revenue could be added to this bill.

Section 2. AS 47.40.040(b) is repealed and re-enacted to read:

- (b) Full cost of services does not include the following:
- (1) expenses, including salaries and fees, incurred in raising funds;
 - (2) funds expended for construction, major equipment and other capital expenditures;
 - (3) program and administrative expenses supported by private contributions, grants, and other supplemental funding sources;
 - (4) religious training and education; and
 - (5) services provided which are substandard to, or exceed, requirements of the department (§ 1 ch 136 SLA 1970)

SECTION-BY-SECTION DESCRIPTION

Sec. 1. This section amends AS 44.29.020, which prescribes various duties of the Department of Health and Social Services, to refer to administration of "adult public assistance" rather than to administration of separate programs for "old age assistance" and "aid to the blind".

Secs. 2, 3, and 4. These sections accomplish the same thing with respect to AS 47.05.010(1), (2), and (5), respectively.

Sec. 5. This section accomplishes the same thing in AS 47.05.050, without having to eliminate reference to "aid to the blind" because that section currently does not refer to that program.

Sec. 6. This section changes the title of art. 4 of AS 47.25 and amends AS 47.25.430 to address all three components of adult public assistance.

AS 47.25.430, as amended in this section, collects significant provisions of former AS 47.25.430 (aged), AS 47.25.620 (blind), and AS 47.25.790 (disabled). The reference to "65 years" is deleted from AS 47.25.430 and put in the definitions section -- AS 47.25.615. A definition of "resident" which parallels language of the Social Security Act is added in place of AS 47.25.780(4). Specific reference to the Alaska Pioneers' Home is deleted. A definition of "public institution," broad enough to include it, is added to AS 47.25.615. Citations are appropriately changed and several phrases are modified in the interest of style.

Sec. 7. The language of AS 47.25.435 is amended to include all income exclusions specified in federal law. The SSI exclusions are included to assure that recipients of Adult Public Assistance will be eligible for Medicaid.

Reference to regulatory authority is deleted because it is addressed in AS 47.05.010. This section also includes a citation change necessitated by the consolidation of provisions.

- Sec. 8. This section simply clarifies AS 47.25.450.
- Sec. 9. This section amends AS 47.25.460. Subsection (b), as amended, consolidates the language of former AS 47.25.480 and AS 47.25.510 with this section. Other provisions are clarified. The deleted sentence in (d) (formerly (c)) relates to a procedure which the modern level of mail service renders unnecessary.
- Sec. 10. This section makes a citation change in AS 47.-25.470.
- Sec. 11. This section amends AS 47.25.500. Subsection (a) is amended to add clarity and to make it clear that there will be no prehearing termination of benefits, in accordance with United States Supreme Court decisions on this subject. Also, in the sentence on enforcement actions, the term "shall" is changed to "may" to conform to corresponding provisions in former AS 47.25.740 (blind) and AS 47.25.920 (disabled); this will assure continued prosecutorial discretion in the attorney general. Subsection (b) is amended to allow the department, within certain guidelines, to waive or reduce the amount to be recovered. The former language of this subsection is deleted to reflect the fact that the federal government awards SSI benefits independently.
- Sec. 12. This section makes minor, technical amendments to AS 47.25.515.
- Sec. 13. This section amends AS 47.25.520 to eliminate archaic language.
- Sec. 14. This section makes a citation change in AS 47.-25.550.

- Sec. 15. This section makes technical amendments to AS 47.25.580, including one related to the deletion of the former language of AS 47.25.500(b).
- Sec. 16. This section makes citation and name changes in AS 47.25.590. It also adds language relating to relations with the federal government which derives from former AS 47.25.930.
- Sec. 17. This section amends AS 47.25.600 to reflect the terminology of the new criminal code. A class B misdemeanor is punishable by up to 90 days in jail, a \$1000 fine, or both.
- Sec. 18. This section amends AS 47.25.610 to proscribe violation of both statutes and regulations. Confusing language concerning "no other penalty" is deleted. Reference is also made to a class B misdemeanor.
- Sec. 19. This section, which derives from AS 47.25.780 and AS 47.25.960, includes the definitions mentioned above.
- Sec. 20. This section repeals statutes which are unnecessary or which concern matters that are readily addressed by regulation.

This is background information on the history of full cost of care which Allipon provided

Repealing the full cost of care statute (AS 47.40) will allow the State to (1) contract for only the beds it needs and reduce overall expenditures, (2) provide equalization of rates on a regional basis (for example, urban rates are higher because they benefit from private donations, fund-raising drives; equalization on a regional basis will spread out the money more equitably around the state and into rural areas), (3) the repeal will allow a specialized foster care program to be established whereby foster families are provided with a daily rate of funding, resulting in the placement of more children in foster homes rather than in institutions.

Currently AS 47.40 states that the State must pay based on total expenditures from last year; thus the State is picking up the tab in future years for any other income received by institution (private donation, community contributions, etc.). AND

if the institution is licensed for 10 children but cares for only 5, the overhead costs must be paid for 5 rather than 10 individuals thereby effectively increasing rates. Because the state must pay at the higher rates if the institution is only half full, the institutions are not encouraged to maintain occupancy at most cost-effective levels. In FY 81, average occupancy rates over all institutions was only 70%, yet the state paid the overhead costs (included in daily rate calculation) as if the institutions were 100% filled.

per Div. of Budget + Management

The providers of institutional care met with the Department of Health and Social Services and proposed a compromise which would amend (rather than repeal) AS 47.40. While the department advocates repeal, it agreed that the amendment represented a step in the right direction. The amendment removed private contributions, grants and other supplemental funding sources from calculating the full cost of services.

In addition, the providers told H&SS that salaries and COLA for FY 83 would be held at the FY 82 level to absorb a legislative budget reduction, but subsequent correspondence from John Garvin (President of Alaska Association of Homes for Children, Inc.) reflects that should the Legislature adopt the Governor's revised budget of \$10.9 million for Institutional Care (\$1 million less than Governor's original request), one of three alternatives to be considered by the Association in addressing the \$1 million cut is

"to support the Association in bringing litigation against the State for the salary/COLA increases mandated by AS 47.40.040(a)."

Thus the effort by the providers to amend the Statute to effect a cost savings to the State has little meaning should the providers turn to suing the State, ~~for~~ -- even after they told the department that salaries and COLA would be held at the FY 82 level to absorb a legislative budget reduction..

John Pugh (Director of the Family & Children's Svcs Division, DHSS) and/or Marsha Hubbard (Budget Director for DHSS) will be present to answer any questions.

CS for Senate Bill No. 651 (HESS) is presently in Senate Finance. This new section relating to other sources of revenue could be added to this bill.

Section 2. AS 47.40.040(b) is repealed and re-enacted to read:

(b) Full cost of services does not include the following:

- (1) expenses, including salaries and fees, incurred in raising funds;
- (2) funds expended for construction, major equipment and other capital expenditures;
- (3) program and administrative expenses supported by private contributions, grants, and other supplemental funding sources;
- (4) religious training and education; and
- (5) services provided which are substandard to, or exceed, requirements of the department (§ 1 ch 136 SLA 1970)

alaska association
of
homes for children, inc.

*Serving the Residential Care and Treatment Needs
of Alaska's Children through Voluntary Member Agencies*

Address correspondence to:

March 26, 1982

MEMORANDUM

TO: Member Agency Executives of AAHC Copy: John Pugh, DFYS Director
FROM: John C. Garvin, President
RE: Proposed Amendments to AS 47.40

There has been a strong move in the Department of Health and Social Services and the Alaska State Legislature to repeal AS 47.40 (the Full Cost of Care Statute) due to the Department's lack of control over escalating cost of care rates. Some of this increase is due to agencies being able to use private contributions for cost reimbursable expenses.

At meetings in Juneau on March 25 I arrived at a possible compromise as an alternative to the repeal of AS 47.40. It is based on amending AS 47.40 to disallow expenses paid for by private donations, grants, interest earned, etc. These currently tend to inflate total State expenditures to providers by more than one-half million dollars annually.

The proposed amendments also permit depreciation and capital expenses up to \$25,000 to become allowable costs in rate determination while specifically excluding certain education related expenses.

In order to facilitate the legislative process, it is proposed that these amendments to AS 47.40 be included in a bill already in the legislative system, Committee Substitute for Senate Bill 651 (CSSB 651). It is expected that this bill will soon be acted upon by the Senate Finance Committee. The original CSSB 651 amends AS 47.40 to allow for paid, specialized foster homes.

A copy of CSSB 651 with the proposed additional amendments is appended for your careful consideration. I am also appending a copy of AS 47.40 with the suggested changes noted.

I shall try to arrange a conference telephone call for Friday, April 2nd, at which time we can together discuss this matter. Please obtain input from your Board of Directors if possible prior to our telephone call. Should you not be able to participate in the conference call, please call me direct with your input.

We are still planning to have the special meeting of the Association on Monday, April 26th, 2:00 p.m., at the Baranof Hotel in Juneau.

JCG:cm (Enclosures)

P.S. I am including a second memorandum pertaining to the State budget for FY 1983 for your consideration.

John C. Garvin, Ph.D., President • Phone 907-275-4515 • 1200 E. 27th Avenue, Anchorage, Alaska 99504

Several of the private agencies are filled to capacity with waiting lists for certain types of very troubled children. As more unstable families continue to migrate to Alaska in search of employment, the case loads are continuing to grow. Regional treatment centers for the severely disturbed children are urgently needed in Fairbanks and Juneau. Some provision must be made for expanding and improving the current services.

According to Department of Labor cost of living studies, it is anticipated that inflation will continue at approximately six percent through the coming year. Housing costs, especially, will continue to rise rapidly; and employees as well as the agencies must anticipate continued escalation in the cost of living. A minimum of six percent will be needed by the agencies to cover salary increases and other inflation-related cost of living increases.

JCG
3/26/82

alaska association
of
homes for children, inc.

*Serving the Residential Care and Treatment Needs
of Alaska's Children through Voluntary Member Agencies*

Address correspondence to:

March 26, 1982

MEMORANDUM

TO: AAHC Member Agency Executives
FROM: John C. Garvin, President
RE: Proposed FY '83 State Budget Considerations

In behalf of the Association I attended the House of Representatives' Finance Committee budget hearings in Juneau on March 24. The Committee approved a Department of Health and Social Services (DHSS) budget that included the appropriation for FY '83 for residential child care facilities.

In this budget the Department and the Governor had requested 11.9 million dollars for residential child care services. The House Finance Committee reduced this by two million dollars, cutting the amount down from 11.9 million dollars to 9.9 million.

At the rate hearings in February, we concluded that 13.2 million dollars would be needed if an 11 percent salary/COLA increase, and a three percent employee benefit/retirement increase were granted. The current FY '82 budget for residential care is 10.9 million dollars.

The action of the House Finance Committee will leave a shortfall of approximately one million dollars available for next year in relation to the current funding level of 10.9 million. The Department estimates that they will have to reduce placements in our private facilities by approximately 50 children per day statewide unless this amount can be increased.

It is essential, therefore, that the Senate Finance Committee and ultimately the Alaska State Legislature approve an appropriation of at least the 11.9 million dollars requested by the Department/Governor in the original FY '83 budget request. A revised Governor's budget, soon to be made public, is reported to reduce the initial 11.9 million to approximately 10.9 million. This, of course, provides for no increases over the current FY '82 funding level of 10.9 million dollars.

If only 10.9 million dollars is appropriated, no rate increases at all will be possible unless placements are reduced in some or all of our private agencies.

(over)

As an Association, as well as individual agencies, we need to consider several courses of action which include:

(1) How to persuade the Department/Governor and the Legislature to increase our appropriation to the 13.2 million dollars needed to improve services and salaries. Failing in this, we need to prevail upon the Legislature to adopt a budget which includes 11.9 million dollars needed if cost of care rates are to be increased at all in FY '83.

(2) What to do should only the current 10.9 million be approved for next year. Possibilities:

(a) Each agency agree to continue at its FY '82 rate.

(b) Plan for program cuts necessary to survive should the Department reduce placements by approximately 10 percent.

(c) Support the Association in bringing litigation against the State for the salary/COLA increases mandated by AS 47.40.040(a).

(3) What to do should the House Finance Committee's recommendation of 9.9 million dollars or less be the final appropriation, thus requiring a 20 percent reduction or greater in the number of placements.

It appears that the Governor must be persuaded to restore and/or retain his initial request for 11.9 million dollars. Also, we must urge the Senate to support the Governor's budget as its minimum appropriation for residential child care services. To do this will, of course, require that we compromise substantially this year and settle for less than the 13.2 million dollars needed.

Finally, we must prevail upon the Budget Prod Conference Committee members, once they are identified, to approve no less than the 11.9 million dollars originally requested by the Department and the Governor.

Appended is a summary page of budget considerations for FY '83.

Your counsel, support and action are needed NOW! The troubled children and youth of Alaska are counting on you, your agency and your Board of Directors as never before.

JCG:cm

alaska association
of
homes for children, inc.

*Serving the Residential Care and Treatment Needs
of Alaska's Children through Voluntary Member Agencies*

Address correspondence to:

STATE OF ALASKA, DEPARTMENT OF HEALTH AND SOCIAL SERVICES

RESIDENTIAL CHILD CARE BUDGET CONSIDERATIONS FOR FY '83

Amount needed to fund AS 47.40 with an 11 percent Salary/COLA increase, and three percent for Employee Pension/Benefits, and five percent for necessary new and expanded services.	\$13,200,000
Amount needed to fund AS 47.40 with a six percent Salary/COLA increase, and three percent for new services.	\$11,900,000
Amount requested by Department/Governor in initial FY '83 budget.	\$11,900,000
Amount requested by Department/Governor in revised FY '83 budget.	\$10,900,000
Amount in current FY '82 budget for residential child care services.	\$10,900,000
Amount passed by the House of Representatives' Finance Committee on March 24, 1982, for FY '83 budget.	\$ 9,900,000
Absolute compromised bottom line amount needed by private agencies to continue serving State-placed abused, neglected, troubled children in FY '83.	*\$11,900,000

* Needed for the State's 16 private residential child care agencies to provide quality, professional residential child care services for more than 1,000 of the State's abused, neglected, troubled children and youth in FY '83. This will result in about 100,000 days of care at an average daily rate of approximately \$119.

Due to the severely disturbed nature of most children now placed in residential treatment centers and their personal need for intense supervision and individual relationships, the minimum child/staffing ratios and required State of Alaska minimum wage/overtime/worker's compensation coverage, as well as stringent health, fire and safety codes, these daily rates are barely adequate.

(over)

(10) "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol;

(11) "office" means the office of alcoholism within the Department of Health and Social Services;

(12) "treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care which may be extended to alcoholics and intoxicated persons, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling. (§ 1 ch 207 SLA 1972; am § 4 ch 116 SLA 1978)

Effect of amendment. — The 1978 amendment inserted "or through a grant awarded under AS 47.30.475" in paragraph (8).

Quoted in Peter v. State, Sup. Ct. Op. No. 1112 (File No. 2185), 531 P.2d 1263 (1975).

Chapter 40. Purchase of Services.

Section	Section
10. Purchase of services	50. Services
20. Licensing and supervision	60 — 70. [Repealed]
30. Required accounting procedures	80. Definitions
40. Determination of full cost of services	

Sec. 47.40.010. Purchase of services. (a) When the department purchases services for persons for whom the state has assumed responsibility under the laws of the state, the department shall

- (1) adopt regulations establishing the levels of care to be provided;
- (2) determine the rates of payment for the full cost of services required;
- (3) pay all expenses related directly to the full cost of services at the levels of care required;
- (4) make the placement of persons in accordance with the levels of care provided for in the regulations.

(b) Services of jails and other penal institutions may not be included in services purchased by the state in this chapter. (§ 1 ch 136 SLA 1970)

Sec. 47.40.020. Licensing and supervision. Anyone providing services which are purchased by the department under this chapter shall, if required by the department, be licensed and supervised in the same manner as boarding homes, foster homes and other institutions as provided for in AS 47.35.010 — 47.35.080. (§ 1 ch 136 SLA 1970)

Sec. 47.40.030. Required accounting procedures. Anyone who solicits or receives funds from the department for the cost of services provided under this chapter shall

- (1) meet accepted standards of fiscal accountability for public funds and shall, upon request, submit a complete financial statement by an independent, certified public accountant to the department and to the division of legislative audit;

(2) upon request
 (14), demonstrate
 accounting procedure
 (3) upon request
 information,
 under this chapter

Sec. 47.40.040. Chapter, "full per day cost anticipated cost fiscal year for by the department homes shall nursing home

- (b) Full cost
- (1) expense
- (2) funds
- capital expense
- (3) depreciation
- major property
- (4) religious
- (5) services
- requirements

Sec. 47.40.050. required the within the C published by 1967. (§ 1 ch

Sec. 47.40.060. Repealed b

Editor's note. derived from § 1

Sec. 47.40.070. Repealed b

Editor's note. derived from § 1

Sec. 47.40.080. (1) "anyone or voluntary (2) "service home service nursing home

§ 47.40.030

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§ 4 ch 116

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§ 47.40.040 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.40.080

(2) upon request before the meetings provided for in AS 47.05.010 (14), demonstrate the actual cost of services offered using cost accounting procedures as provided for by the department;

(3) upon request, furnish the division of legislative audit all fiscal information, books, records, and accounts pertaining to services paid for under this chapter. (§ 1 ch 136 SLA 1970)

Sec. 47.40.040. Determination of full cost of services. (a) In this chapter, "full cost" of services shall be determined by the per person, per day cost in the preceding fiscal year plus a proportionate share of anticipated cost of living and staff salary increment increases for the fiscal year for which the full cost of services, determined to be necessary by the department, is being determined. Child care costs for foster homes shall be computed in the same manner as for child care and nursing home institutions except that no salary costs may be considered.

(b) Full cost of services does not include the following:

(1) expenses, including salaries and fees, incurred in raising funds;

(2) funds expended for construction, major equipment and other capital expenditures;

(3) depreciation and replacement costs of, and costs of additions to, major property and equipment;

(4) religious training and education; and

(5) services provided which are substandard to, or exceed, the requirements of the department. (§ 1 ch 136 SLA 1970)

Sec. 47.40.050. Services. When determining the levels of service to be required the department shall consider program services as outlined within the Catalogue of Functional or Program Service Categories published by the United Funds and Councils of America, September 1967. (§ 1 ch 136 SLA 1970)

Sec. 47.40.060. Temporary placement.

Repealed by § 1 ch 210 SLA 1970.

Editor's note. — The repealed section derived from § 1, ch. 136, SLA 1970.

Sec. 47.40.070. Permanent placement.

Repealed by § 1 ch 210 SLA 1970.

Editor's note. — The repealed section derived from § 1, ch. 136, SLA 1970.

Sec. 47.40.080. Definitions. In this chapter

(1) "anyone" means any person, city, organized borough and private or voluntary institution or agency;

(2) "services" means family, child welfare and nonprofit nursing home services but does not include health, hospital, profit-making nursing homes or medical services;

A M E N D M E N T

Offered in the HOUSE

TO: CSHB 357(Fin)

Page 1, line 6, after "assistance"

Insert "; and providing for an effective date"

Page 10, after line 3:

Insert the following new material:

* Sec. 21. AS 47.40.010(a)(4) is repealed and reenacted to read:

(4) place persons for whom the state has assumed responsibility at appropriate levels of care in light of individual needs.

* Sec. 22. AS 47.40.020 is amended to read:

Sec. 47.40.020. LICENSING AND SUPERVISION. A person [ANYONE] providing services which are purchased by the department under this chapter shall [, IF REQUIRED BY THE DEPARTMENT,] be licensed and supervised in the same manner as boarding homes, foster homes and other institutions as provided for in AS 47.35.010 - 47.35.080.

* Sec. 23. AS 47.40.030 is repealed and reenacted to read:

Sec. 47.40.030. REQUIRED ACCOUNTING PROCEDURES. (a) A person who solicits or receives payment for services, other than foster home care, under this chapter shall

(1) meet generally accepted accounting principles; and

(2) upon request of the department, produce for inspection

and copying all fiscal information, books, records, and accounts relating to the cost of providing services.

(b) Information acquired by the department under (a) of this section is public information unless its disclosure is prohibited by law.

* Sec. 24. AS 47.40.040 is repealed and reenacted to read:

Sec. 47.40.040. DETERMINATION OF FULL COST OF SERVICES. (a) In this chapter, "full cost" of services shall be determined by the per person, per day cost in the preceding fiscal year plus a proportionate share of anticipated cost of living and staff salary increment increases for the fiscal year for which the full cost of services, determined to be necessary by the department, is being determined.

(b) In determining daily rates for each level of service under this section the following factors may not be included:

(1) expenses, including salaries and fees, incurred in raising money for the operation of a residential child care facility;

(2) money expended for construction, major equipment, and other capital expenditures;

(3) program and administrative expenses provided by private contributions, grants, and other public or private funding sources not provided under this chapter;

(4) expenses incurred for education or religious training of children residing at a residential child care facility; and

(5) expenses for services that exceed or do not meet the requirements of the department.

(c) This section does not apply to the provision of foster home care.

* Sec. 25. AS 47.40 is amended by adding a new section to read:

Sec. 47.40.047. FOSTER HOME CARE RATES. The department shall establish foster home care rates by regulation under AS 47.40.075.

* Sec. 26. AS 47.40 is amended by adding a new section to read:

Sec. 47.40.075. REGULATIONS. The department may adopt regulations necessary to carry out this chapter.

* Sec. 27. AS 47.40.080 is repealed and reenacted to read:

Sec. 47.40.080. DEFINITIONS. In this chapter

(1) "capital expenditures" means money expended for construction, renovation, or equipment purchases over \$25,000 in value;

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

(3) "education" means formal schooling at the pre-elementary, elementary, or secondary level which is generally provided by public or private schools but does not include tutoring, music, art lessons, or other supplementary programs that are determined to be important for a child's development;

(4) "services" means care provided in a foster home or residential child care facility, but does not include medical care or any service for which the manner or rate of payment is otherwise prescribed by law.

* Sec. 28. CREATION OF RESIDENTIAL CHILD CARE SERVICES COMMITTEE. (a)

Notwithstanding AS 47.40.040, there is created a Residential Child Care

Services Committee for the purpose of establishing for the 1983 fiscal year cost of care rates per person per day for each level of child care services established by the Department of Health and Social Services. The committee shall review available audits of residential child care facilities and hold public hearings in establishing daily rates under this section.

(b) The Residential Child Care Services Committee consists of five members appointed by the commissioner of health and social services. Two members of the committee shall be appointed from among owners, operators, and employees of residential child care facilities, two members shall be employees of the Department of Health and Social Services and one member shall be a member of the legislature.

(c) Members of the Residential Child Care Services Committee serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(d) The Residential Child Care Services Committee shall report its findings to the Department of Health and Social Services by September 1, 1982.

Page 10, line 4:

Change "Sec. 21" to "Sec. 29"

Page 10, line 5:

Delete "AS 47.40" and insert "AS 47.40.050" in its place

Page 10, after line 5:

Insert the following new material:

* Sec. 30. This Act takes effect July 1, 1982.

HB 357 TITLE & SPONSOR SUMMARY
AMENDED TITLE:
AN ACT RELATING TO ADULT PUBLIC ASSISTANCE

11:08 4/08/82 PAGE 1 OF 2

PRIME SPONSOR: HOUSE RULES COMMITTEE.
CO-SPONSORS:
CURRENT STATUS: 3/26/82 IN (H) FINANCE

HB 357 HOUSE ACTION
DATE SEQ PAGE

11:09 4/08/82 PAGE 2 OF 2
LEGISLATIVE ACTION

03/18/81	01	0601	FIRST READING -- COMMITTEE REPORTS
03/18/81	02	0601	FISCAL NOTE HSE SUPPL #19
03/18/81	03	0601	GOV TRANSMITTAL LETTER
03/26/82	04	0925	HESS -- CS01, NR03
3/26/82	05	0925	F/NOTE EQUALS ZERO
			FINANCE
			RULES

**** ** **

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC ASSISTANCE

JAY S. HAMMOND, GOVERNOR

POUCH H-07
JUNEAU, ALASKA 99811

PHONE: (907) 465-3355

DOCUMENT NO. 139-82

April 12, 1982

The Honorable Albert Adams
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Adams:

During testimony before House Finance on Wednesday, April 17, I recommended several modifications to Section 6 of CSHB357 (Finance) which were not adopted prior to passage of the bill from the committee. The changes needed are as follows:

- Page 2, Line 12 - Delete wording "Unless otherwise provided by law,".
- Page 2, Line 13 - Delete word "local" preceding "government".
- Page 2, Line 23 - Add wording "with a person or local government" immediately after the phrase "under this section".

Department of Law legal counsel advises me that these changes are crucial for these reasons:

- (1) Line 12: Make it clear that the Department can enter into service delivery contracts. The wording "unless otherwise provided by law" sets up a potential catch 22 where the Department might be prevented from contracting due to the specificity of language found elsewhere in the present statutes calling for the Department to perform certain functions.
- (2) Line 13: Make it clear that the Department may contract with federal agencies to deliver departmental services. Current wording of CSHB357 restricts this flexibility to local governments only. Of particular concern is our intent to transfer the Adult Public Assistance programs to the federal government during FY83.
- (3) Line 23: Make it clear the Department may contract directly with the federal government to deliver departmental services without publishing a request for proposals. Where the Department might exercise this option, "Request for Proposals" would be inappropriate because there is only one federal government. Appropriate federal and state staff would simply negotiate the terms of any such contractual arrangement under the legal guidance of the Department of Law.