

**ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672**

**8566 HOUSE HEALTH EDUCATION & SOCIAL SERVICES**

ALASKA FEDERATION OF NATIVES

1995 ANNUAL CONVENTION

RESOLUTION 95-23

**TITLE:** DECLARING INDIGENOUS LANGUAGES AS NATIONAL LANGUAGES  
AND OPPOSE ENGLISH-ONLY LEGISLATION

**WHEREAS:** the Federal government of the United States has a unique responsibility for Indigenous Languages and Native American Governments while, at the same time, an interest in promoting the use of the English language; and,

**WHEREAS:** Indigenous Languages have historically been used by Native American governments within the United States from time immemorial and have unique cultural, religious and historical importance; and,

**WHEREAS:** Indigenous Languages do not have foreign homelands whose governments and institutions can be expected to promote them; and,

**WHEREAS:** studies indicate that more than half of the indigenous languages of the United States are considered "endangered" and many have only a handful of speakers at the end of this century; and,

**WHEREAS:** the United States Congress is in the process of introducing legislation to declare English and the Official language of the Government of the United States.

**NOW THEREFORE BE IT RESOLVED,** by the delegates to the 1995 Annual Convention of the Alaska Federation of Natives, Inc., that they actively oppose the passage of legislation to amend the United States Code to declare English as the official language of the Government of the United States; and

**BE IT FURTHER RESOLVED,** that the Alaska Federation of Natives will actively support the maintenance, promotion, preservation, study, teaching, artistic use and survival of the Indigenous languages. AFN will also work to oppose legislation which prevents or hinders the maintenance, promotion, preservation, study, teaching, artistic use and survival of the Native languages of the United States of America.

**SUBMITTED BY:** Alaska Native Educational Council

**COMMITTEE ACTION:** Do Pass

**CONVENTION ACTION:** PASSED



March 14, 1996

Testimony in Opposition to HB 512

Nora Marks Dauenhauer  
Principal Researcher  
Language and Cultural Studies  
Sealaska Heritage Foundation

I oppose HB 512, an act to make English the official language of Alaska.

The law is unnecessary and redundant. English is already the common language of communication in Alaska.

This bill seems to have its origins in the insecurity and prejudice of some segments of the white community. It seems to be coming from fears that are absolutely unfounded. Mexican novelist Carlos Fuentes suggested to journalist Bill Moyers in an interview that

“When you get a proposition in California to vote the English language as the official language of the State of California, this only means one thing—that English is no longer the official language of the State of California.”

This is not the case in Alaska. There is no threat to English from any other language. In fact most Alaska Native languages are in danger of extinction.

Native languages have suffered discrimination and persecution under the “English-only” policies of the past, and many schools are still reluctant to include Alaska Native language and cultural instruction in the curriculum.

This bill is certainly an affront to the dignity and status of Alaska Native languages. The bill also looks like a new threat to the survival of Alaska Native languages.

The bill serves no practical purpose. It is symbolic and divisive. I fear that it may generate or support anti-Native language emotion and activity in the future, and that it may become the legal basis or precedent for laws or policies against Alaska Native languages in the future.

We need the support of the Alaska State Legislature to protect the rights and ethnic heritage of all citizens, and not to pass discriminatory legislation directed against Alaska Native people and their heritage.

**HB**

**515**

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 515

Revision: \_\_\_\_\_  
 Title: Grants for Residential Services  
 Sponsor: Williams  
 Requestor: House HESS

Dent. Affected: Health and Social Services  
 BRU: Administrative Services  
 Component: Commissioner's Office  
 COMPONENT SERIAL NO. 317  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

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

AS 47.40.041(c)(2) prohibits recipients of grants for youth residential care (administered by the Division of Family and Youth Services) from using grant funds for capital expenditures. In many cases, this prohibition forces grantees to rent buildings and equipment even when the Department and the grantee agree that acquisition of an asset would be more economical and would improve services. These restrictions do not apply to other grant programs administered by the Department.

The Department feels that simply amending AS 47.40.041(c) to remove paragraph (2) would be preferable to the current bill, since the paragraph serves no useful purpose. While the bill could provide relief to specific grantees by allowing them to purchase a building, the Department feels that the current bill is too narrowly focused. It would allow purchase of a building for use for youth residential services, but may not allow for "construction, or lease with option to purchase" of facilities which are specifically prohibited by AS 47.40.041(c)(2). Moreover, use of grants to defray capital costs for major equipment and other assets would still be prohibited.

Prepared by: Janet Clarke  
 Division: Administrative Services  
 Approved by Commissioner: Karen Perdue  
 Agency: Department of Health & Social Services

Phone: 465-3082  
 Date: 02/23/96

Date: 2/26/96

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(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 12, 1996

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 3/7/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 515

HOUSE BILL NO. 515

USE OF YOUTH SERVICES GRANTS

"An Act relating to grants for residential services for certain minors for whom the state has assumed responsibility; and providing for an effective date."

recommends it be replaced  the same title  
with the following committee substitute \_\_\_\_\_  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

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

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

zero fiscal note(s) H+SS

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

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
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<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE *[Signature]*

# Alaska State Legislature



Committees:  
House Resources  
Co-Chairman  
World Trade &  
State Federal Relations  
Transportation  
Rules  
Oil & Gas

Representative William K. Williams

During Session:  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-3424  
Fax (907) 465-3793

In Ketchikan:  
357 Front Street  
Ketchikan, AK 99901  
(907) 247-4672  
Fax (907) 225-8546

## Sponsor Statement

### House Bill 515

House Bill 515 allows the recipient of an operating grant for residential services to use grant money to pay for the purchase of a building. Residential services are defined in statute as "24-hour care and supervision of minors in residential child care facilities that are commonly known as group homes or institutions" (AS 47.40.091).

Currently recipients of these grants may not use the grant money to pay the principal of a mortgage loan. They may, however, use the money for rent and lease payments. Today recipients pay rent/lease payments year after year with no chance of building equity. The residential youth home in Ketchikan has spent over \$200,000 in rent over the last six years. They could own their facility today had it not been for the present statute.

By changing this statute these residential centers can, in many cases, lower monthly payments and eventually own their own facility. In the long run this will lessen their dependency on the state and allow more money for the programs that help our troubled youth.

During these times of fiscal responsibility we need to get the most out of every dollar the state spends. I believe this legislation will give these homes flexibility toward bettering their programs. I urge you to support this legislation.

# ALASKA ASSOCIATION OF HOMES FOR CHILDREN

February 21, 1996

The Bethel Group Home  
Bethel, Alaska

Ketchikan Children's Home  
Ketchikan, Alaska

Presbyterian Hospitality House  
Fairbanks, Alaska

The Salvation Army  
Booth Memorial Home  
Anchorage, Alaska

Sitka Youth Home  
Sitka, Alaska

Maniilaq Association Group Home  
Kotzebue, Alaska

Alaska Youth & Parent Foundation  
Anchorage, Alaska

Nome Receiving Home  
Nome, Alaska

Kodiak Baptist Mission  
Kodiak, Alaska

Council of President's  
Receiving Home  
Bethel, Alaska

Kenai Peninsula Community  
Care Center  
Kenai, Alaska

North Star Home  
Dot Lake, Alaska

Juneau Youth Services  
Juneau, Alaska

Alaska Children's Services  
Anchorage, Alaska

Life Quest  
Wasilla, Alaska

Barrow Children's Home  
Barrow, Alaska

Alaska Baptist Family Services  
Anchorage, Alaska

Representative Bill Williams  
House of Representatives  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

RE: HB 515

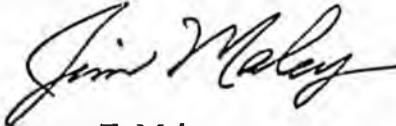
Dear Representative Williams:

This letter is to express the appreciation of the seventeen children's agencies of the Alaska Association of Homes for Children for your introduction of House Bill 515. In recent action, the Association voted to endorse this legislation.

In times of reduced revenues, it is imperative that we provide our services to Alaska's children in the most effective and efficient manner possible. Your bill provides a level of flexibility to utilization of state funds which is of benefit to the children served, the agencies providing the services, and the people of Alaska.

Again, our sincere thanks and support for your efforts.

Sincerely,



James E. Maley,  
President

**Residential Child Care Agencies Serving the Needs of Alaska's Youth**

SUPPORT

## DIVISION OF FAMILY AND YOUTH SERVICES

### GRANT PROGRAM: Residential Child Care

#### AUTHORITY:

AS 47.40.011 Purchase of Service. (a) When the Department purchases residential services for minors for whom the state has assumed responsibility under AS 47.10, the Department shall: (1) purchase the service only under grants to local government units or non-profit corporations; (2) award grants for a specific number of beds as provided in AS 47.40.041. (b) The Department shall adopt regulations necessary to carry out the provisions of AS 47.40.01-47.40.091, including regulations establishing the procedures to be followed in awarding grants, the type of services for which payment may be made, costs that may be paid with grant money and the method of payment.

#### APPROPRIATIONS:

Funding for these grants is made through the Purchased Service BRU Residential Child Care Component. This component includes funds for grants as well as purchase of service from out-of-state providers when the care required is not available in state. This component also includes funding for other services such as medical, psychological services, client travel and clothing. Residential care grants to in-state providers totaled \$8,529,728 for FY 96.

#### PRIORITIES:

The primary focus of residential child grants has been to protect and treat children who are victims of child abuse and neglect as well as to rehabilitate juvenile offenders. Services provided are intended to achieve both immediate and long term solutions to family problems; promote the preservation, rehabilitation, and reunification of families to the extent possible; and to promote independence and the use of least restrictive alternatives. The major emphasis is to provide services to children in their own communities whenever possible. Programs include emergency shelter, day treatment, specialized residential care and staff secure care. Length of stay in care ranges from one day up to two years.

**TARGET GROUP/GEOGRAPHICAL AREA SERVED:**

Services are provided in communities across the state under this program. Approximately 1,357 abused and neglected children and delinquent youth are served annually through these grants.

**RESOURCE ALLOCATIONS:**

Regional funding allocations are based on populations, caseloads, and available beds in each region.

Northern	29%
Southcentral	51%
Southeastern	20%.

**CRITERIA:**

Criteria are based on evaluation of potential grantees' understanding of services to be provided, background statements, technical approach, experience and personnel qualifications, preference for statewide or regional priorities, and budget factors. Regional Administrators who administer both family services and youth services provide input to the Proposal Evaluation Committee on the effectiveness of grant applications in providing services.

## Grants to Non-Profit Agencies for Capital Assets: Maintaining the Public Purpose and the State's Interest

The Department of Health and Social Services administers many programs that provide grant funds to non-profit organizations. Some grants are for acquisition of capital assets—real property or major equipment. Since capital assets have a useful life longer than a year, potential problems exist in assuring the proper use of those assets over their useful life, which may be many years.

Nonetheless, the potential problems can be addressed and the acquisition of assets by grantees can represent good business practice. On a case by case base, allowing grantees to purchase capital assets may offer substantial cost savings or substantial improvements in services. For instance, purchasing a vehicle may be preferable to leasing if the lease payments are higher than installment payments for a purchase—especially since the grantee would own the vehicle free and clear after making payments. The decision whether to lease or acquire a capital asset can be complex and requires an evaluation of the particular situation.

The Department's grant regulations, notably 7AAC 78.280(c) (attached), provide some protection against inappropriate use of capital assets acquired with grant funds. (However, statutes—AS 37.05.318—prevent regulations from applying to named-recipient grants—those specifically designated by the legislature to a particular organization.) The regulations state that title to a capital asset vests in the grantee, but if the grantee does not provide the services for which the asset was acquired, the Department can transfer the asset to another entity that will provide the service (under certain conditions). As an example, an agency with a building bought entirely with grant funds may stop providing the services for which it purchased the building. The Department could then require the agency to transfer the building to the successor agency now providing the services (or to reimburse the grant funds). This authority gives the Department bargaining strength in negotiating a settlement to maintain the purpose of the original grant.

In addition, the Department establishes "security agreements" for capital assets that provide legal assurances the assets will be used in a manner appropriate to the grant. In the case of real property, the security-agreement used is generally a deed of trust (similar to that used for a mortgage loan), although in some cases covenants and restrictions are recorded on the property instead. Another type of security agreement (Uniform Commercial Code Financing Statement, the "UCC-1" form) is generally used for equipment. All security agreements are restrictions on title, and are recorded at the State Recorder's Office.

The deed of trust allows the state to foreclose on real property that is being used for purposes contrary to the intent of the grant. It can provide some legal leverage in negotiations with those grantees. In the security agreements the State's interest in the property is assumed to gradually depreciate over a period of time, usually twenty years in the case of real property. The twenty year period has been used traditionally and has basis in old IRS depreciation schedules and old federal guidelines. In many cases, because of mixing of funding sources in a capital asset and fluctuations in market value, the exact amount of value attributable to a particular grant can be very complex. The twenty year period reasonably balances the need to ensure the public's money is invested correctly while recognizing legal and administrative realities that make perpetual and precise control impossible.

procedures for the procurement of goods and services. The practices and procedures must be acceptable to the grant agency. The practices and procedures shall provide that

(1) for purchases of non-expendable personal property, or for the award of a contract with a value of \$300 or more, the grantee will require three competitive price quotations from potential suppliers; and

(2) the grantee will retain written records of price quotations in accordance with 7 AAC 78.250 and will include in the written records

(A) specifications;

(B) suppliers' names and addresses; and

(C) the prices quoted. (Eff. 4/11/81, Register 78)

Authority: AS 18.08.010  
AS 44.29.150

AS 47.05.010  
AS 47.30.477

AS 47.30.530

**7 AAC 78.280. PROPERTY MANAGEMENT.** (a) If the grantee acquires an interest in real property with money received from the grant, the grantee must negotiate property management terms with the grant agency.

(b) Before the grantee may use money received from a grant to purchase non-expendable personal property, the acquisition cost of the property must be included in the budget, or in an amendment to the budget, of the grant project approved by the grant agency. In this subsection, "acquisition cost" means

(1) the cost of the non-expendable personal property and the cost of necessary accessories; and

(2) ancillary charges, such as duty, taxes, transportation, protective in-transit insurance, and installation fees if the inclusion of those charges is in accordance with the grantee's regular accounting practices.

(c) Title to property purchased under (b) of this section vests in the grantee upon acquisition subject to the right of the grant agency to transfer title to the property to the state or to another person or legal entity if

(1) the grant agency did not waive its right to transfer title to property under this subsection under the terms of the grant;

(2) the grantee no longer has need for the property in the grant project for which it was acquired, or the grant project or that part of the grant project for which the property was acquired is being transferred to another grantee;

(3) no later than 120 days after the completion or termination of the grant or 120 days after the date of an appeal decision under 7 AAC 78.310, if applicable, whichever is later, the grant agency provides written notice to the grantee of its intent to transfer the property; and

## RESIDENTIAL CHILD CARE

BRU: PURCHASED SERVICES

COMPONENT: RESIDENTIAL CHILD CARE

DIVISION OF FAMILY AND YOUTH SERVICES

GRANTEE	LOCATION	ELECT. DIST.	NEW/ CONT.	FY86 AMT. AWARDED	SERVICE	FTE STAFF	AMT. PERS. SERVICES	FUND SOURCE	FY 86 AMT. AWARDED
ALASKA BAPTIST FAMILY SERVICES	ANCHORAGE	10-25	CONT	\$487,172	SPECIALIZED RESIDENTIAL CARE.	12.48	\$400,882	GF	\$558,260
ALASKA CHILDREN'S SERVICES, INC.	ANCHORAGE	10-25	CONT	\$753,025	RESIDENTIAL PSYCHIATRIC TREATMENT.	7.10	\$148,015	GF	\$753,025
ALASKA YOUTH & PARENT FOUNDATION	ANCHORAGE	10-25	CONT	\$762,425	EMERGENCY SHELTER CARE.	19.12	\$582,923	GF	\$674,800
ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS	BETHEL	39	CONT	\$289,080	EMERGENCY SHELTER CARE.	4.82	\$213,392	GF	\$289,080
BETHEL GROUP HOME	BETHEL	39	CONT	\$443,197	RESIDENTIAL CARE.	5.11	\$299,431	GF	\$373,614
JUNEAU YOUTH SERVICES	JUNEAU	03-04	CONT	\$268,900	RESIDENTIAL CARE, SEX OFFENDERS.	8.00	\$216,390	GF	\$268,275
JUNEAU YOUTH SERVICES	JUNEAU	03-04	CONT	\$167,900	EMERGENCY CARE, TRANSITIONAL CARE.	2.00	\$122,250	GF	\$167,900
JUNEAU YOUTH SERVICES	JUNEAU	03-04	CONT	\$532,900	RESIDENTIAL CARE, INTENSIVE TREATMENT.	11.50	\$378,324	GF	\$532,900
KENAI PENINSULA COMMUNITY CARE CENTER	KENAI	09	CONT	\$878,900	RESIDENTIAL CARE, EMERGENCY CARE (TEACHING FAMILY HOME).	13.00	\$498,579	GF	\$878,900
KIDS ARE PEOPLE	WASILLA	28-28	NEW	\$0	RESIDENTIAL CARE.	2.80	\$87,600	GF	\$87,600
KODIAK BAPTIST	KODIAK	08	CONT	\$451,085	RESIDENTIAL CARE (TEACHING FAMILY HOME).	7.00	\$269,690	GF	\$410,077
MAT-SU COMMUNITY COUNSELING CENTER	WASILLA	28-28	CONT	\$219,000	RESIDENTIAL CARE AND EMERGENCY SHELTER.	5.11	\$176,907	GF	\$219,000

## RESIDENTIAL CHILD CARE

BRU: PURCHASED SERVICES

COMPONENT: RESIDENTIAL CHILD CARE

DIVISION OF FAMILY AND YOUTH SERVICES

GRANTEE	LOCATION	ELECT. DIST.	NEW/ CONT.	FY88 AMT. AWARDED	SERVICE	FTE STAFF	AMT. PERS. SERVICES	FUND SOURCE	FY 88 AMT. AWARDED
NOME RECEIVING HOME	NOME	38	CONT	\$375,445	RESIDENTIAL CARE AND EMERGENCY SHELTER.	7.52	\$115,772	GF	\$145,912
NORTH SLOPE BOROUGH RECEIVING HOME	BARROW	37	CONT	\$582,175	RESIDENTIAL CHILD CARE AND EMERGENCY SHELTER.	15.00	\$443,298	GF	\$582,175
NORTH STAR HOME, INC.	DOT LAKE	36	CONT	\$335,800	RESIDENTIAL CARE (TEACHING FAMILY HOME).	3.13	\$189,404	GF	\$335,800
PRESBYTERIAN HOSPITALITY HOUSE	FAIRBANKS	29-34	CONT	\$629,625	RESIDENTIAL CARE (TEACHING FAMILY HOME).	11.80	\$398,363	GF	\$629,625
RESIDENTIAL YOUTH CARE, INC.	KETCHIKAN	01	CONT	\$278,130	RESIDENTIAL CARE.	2.72	\$194,855	GF	\$304,130
RESIDENTIAL YOUTH CARE, INC.	KETCHIKAN	01	CONT	\$219,000	RESIDENTIAL EMERGENCY SHELTER.	1.80	\$156,221	GF	\$219,000
SALVATION ARMY - BOOTH MEMORIAL	ANCHORAGE	10-25	CONT	\$735,475	RESIDENTIAL CARE, INTENSIVE TREATMENT, FEMALE.	2.72	\$518,743	GF	\$791,475
SALVATION ARMY - BOOTH MEMORIAL	ANCHORAGE	10-25	CONT	\$232,050	DAY TREATMENT.	4.80	\$179,154	GF	\$232,050
YOUTH ADVOCATES OF SITKA	SITKA	02	CONT	\$278,130	RESIDENTIAL CARE AND EMERGENCY SHELTER.	6.85	\$222,928	GF	\$278,130
TOTALS FOR RESIDENTIAL CHILD CARE						164.38	\$5,809,221		\$8,629,728

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(A) specifications;

(B) suppliers' names and addresses; and

(C) the prices quoted. (Eff. 4/11/81, Register 78)

Authority: AS 18.08.010  
AS 44.29.150

AS 47.05.010  
AS 47.30.477

AS 47.30.530

**7 AAC 78.280. PROPERTY MANAGEMENT.** (a) If the grantee acquires an interest in real property with money received from the grant, the grantee must negotiate property management terms with the grant agency.

(b) Before the grantee may use money received from a grant to purchase non-expendable personal property, the acquisition cost of the property must be included in the budget, or in an amendment to the budget, of the grant project approved by the grant agency. In this subsection, "acquisition cost" means

(1) the cost of the non-expendable personal property and the cost of necessary accessories; and

(2) ancillary charges, such as duty, taxes, transportation, protective in-transit insurance, and installation fees if the inclusion of those charges is in accordance with the grantee's regular accounting practices.

(c) Title to property purchased under (b) of this section vests in the grantee upon acquisition subject to the right of the grant agency to transfer title to the property to the state or to another person or legal entity if

(1) the grant agency did not waive its right to transfer title to property under this subsection under the terms of the grant;

(2) the grantee no longer has need for the property in the grant project for which it was acquired, or the grant project or that part of the grant project for which the property was acquired is being transferred to another grantee;

(3) no later than 120 days after the completion or termination of the grant or 120 days after the date of an appeal decision under 7 AAC 78.310, if applicable, whichever is later, the grant agency provides written notice to the grantee of its intent to transfer the property; and

**HB**

**522**

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 19, 1996

FURTHER REFERRALS: Labor and Commerce Finance

Date of Committee Action: 4/18/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 522

HOUSE BILL NO. 522

EMPLOYER DRUG TESTING PROGRAM

"An Act relating to employer drug and alcohol testing programs."

recommends it be replaced with the following committee substitute 5 HB 522 (HES) [x] the same title [ ] a new title

[ ] additional referral to \_\_\_\_\_ Committee [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date) [ ] fiscal note(s) [ ] fiscal note(s)

[x] zero fiscal note(s) HESS, Labor [ ] zero fiscal note(s)

Table with 5 columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows contain signatures of committee members with checkmarks in the NR column.

CHAIR'S SIGNATURE [Signature]

9-LS1688AC  
Cramer  
4/17/96

**CS FOR HOUSE BILL NO. 522(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

Offered:  
Referred:

**Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to employer drug and alcohol testing programs."**

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

3 **\* Section 1. AS 23.10 is amended by adding new sections to read:**

4 **ARTICLE 9. DRUG AND ALCOHOL TESTING BY EMPLOYERS.**

5 **Sec. 23.10.600. EMPLOYER PROTECTION FROM LITIGATION. (a) If an**  
6 **employer has established a drug and alcohol testing policy and initiated a testing**  
7 **program under AS 23.10.600 - 23.10.699, a person may not bring an action for**  
8 **damages against the employer for**

9 **(1) actions in good faith based on the results of a positive drug test or**  
10 **alcohol impairment test;**

11 **(2) failure to test for drugs or alcohol impairment or failure to test for**  
12 **a specific drug or another controlled substance;**

13 **(3) failure to test or, if tested, failure to detect a specific drug or other**  
14 **substance, a medical condition, or a mental, emotional, or psychological disorder or**  
15 **condition; or**

1 (4) termination or suspension of a drug or alcohol prevention or testing  
2 program or policy.

3 (b) A person may not bring an action for damages based on test results against  
4 an employer who has established and implemented a drug and alcohol testing program  
5 under AS 23.10.600 - 23.10.699 unless the employer's action was based on a false  
6 positive test result and the employer knew or clearly should have known that the result  
7 was in error and ignored the true test result because of reckless or malicious disregard  
8 for the truth or the wilful intent to deceive or be deceived.

9 (c) In a claim, including a claim under AS 23.10.600 - 23.10.699, if it is  
10 alleged that an employer's action was based on a false positive test result,

11 (1) there is a rebuttable presumption that the test result was valid if the  
12 employer complied with the provisions of AS 23.10.600 - 23.10.699; and

13 (2) the employer is not liable for monetary damages if the employer's  
14 reliance on a false positive test result was reasonable and in good faith.

15 (d) A person may not bring an action for damages against an employer for an  
16 action taken related to a false negative drug test or alcohol impairment test.

17 (e) A person may not bring an action against an employer based on failure  
18 of the employer to establish a program or policy on substance abuse prevention or to  
19 implement drug testing or alcohol impairment testing.

20 **Sec. 23.10.610. LIMITS ON CAUSES OF ACTION FOR DISCLOSURES.**

21 A person may not bring an action for defamation of character, libel, slander, or  
22 damage to reputation against an employer who has established a program of drug  
23 testing or alcohol impairment testing under AS 23.10.600 - 23.10.699 unless

24 (1) the results of the test were disclosed to a person other than the  
25 employer, an authorized employee, agent or representative of the employer, the tested  
26 employee, the tested prospective employee, or another person authorized or privileged  
27 by law to receive the information;

28 (2) the information disclosed was a false positive test result;

29 (3) the false positive test result was disclosed negligently; and

30 (4) all elements of an action for defamation of character, libel, slander,  
31 or damage to reputation as established by law are satisfied.

1           Sec. 23.10.615. EMPLOYER'S COMPLIANCE VOLUNTARY. Compliance  
2 with AS 23.10.600 - 23.10.699 by employers is voluntary. A person may not bring  
3 an action for damages against an employer because the employer has a drug testing  
4 and alcohol impairment testing policy that is not in compliance with AS 23.10.600 -  
5 23.10.699.

6           Sec. 23.10.620. EMPLOYER POLICY. (a) Under AS 23.10.600 - 23.10.699,  
7 an employer may only carry out the testing or retesting for the presence of drugs or  
8 alcohol after adopting a written policy for the testing and retesting and informing  
9 employees of the policy. The employer may inform employees by distributing a copy  
10 of the policy to each employee subject to testing or making the policy available to  
11 employees in the same manner as the employer informs its employees of other  
12 personnel practices, including inclusion in a personnel handbook or manual or posting  
13 in a place accessible to employees. The employer shall inform prospective employees  
14 that they must undergo drug testing.

15           (b) The written policy on drug and alcohol testing must include, at a minimum,

- 16                   (1) a statement of the employer's policy respecting drug and alcohol  
17 use by employees;
- 18                   (2) a description of those employees or prospective employees who are  
19 subject to testing;
- 20                   (3) the circumstances under which testing may be required;
- 21                   (4) the substances as to which testing may be required;
- 22                   (5) a description of the testing methods and collection procedures to be  
23 used;
- 24                   (6) the consequences of a refusal to participate in the testing;
- 25                   (7) any adverse personnel action that may be taken based on the testing  
26 procedure or results;
- 27                   (8) the right of an employee, on the employee's request, to obtain the  
28 written test results;
- 29                   (9) the right of an employee, on the employee's request, to explain in  
30 a confidential setting, a positive test result;
- 31                   (10) a statement of the employer's policy regarding the confidentiality

1 of the test results.

2 (c) An employer may require the collection and testing of a sample of an  
3 employee's or prospective employee's urine or breath for any job-related purpose  
4 consistent with business necessity and the terms of the employer's policy, including

5 (1) investigation of possible individual employee impairment;

6 (2) investigation of accidents in the workplace; an employee may be  
7 required to undergo drug testing or alcohol impairment testing for an accident if the  
8 test is taken as soon as practicable after an accident and the test is administered to  
9 employees who the employer reasonably believes may have contributed to the accident;

10 (3) maintenance of safety for employees, customers, clients, or the  
11 public at large;

12 (4) maintenance of productivity, the quality of products or services, or  
13 security of property or information;

14 (5) reasonable suspicion that an employee may be affected by the use  
15 of drugs or alcohol and that the use may adversely affect the job performance or the  
16 work environment.

17 (d) In addition to tests required under (c) of this section, an employer may  
18 require employees or groups of employees to undergo drug testing on a random or  
19 chance basis.

20 (e) If an employer institutes a policy of drug testing or alcohol impairment  
21 testing under AS 23.10.600 - 23.10.699, the policy must uniformly include all  
22 compensated employees including officers, directors, and supervisors.

23 (f) The provisions of AS 23.10.600 - 23.10.699 may not be construed to  
24 encourage, discourage, restrict, limit, prohibit, or require on-site drug testing or alcohol  
25 impairment testing.

26 Sec. 23.10.630. COLLECTION OF SAMPLES. (a) An employer may require  
27 an employee to undergo a test for the presence of drugs or for alcohol impairment.  
28 An employer may require a prospective employee to undergo a test for the presence  
29 of drugs.

30 (b) In order to test reliably, an employer may require an employee or  
31 prospective employee to provide a sample of the individual's urine or breath and to

1 present reliable individual identification to the person collecting the sample.  
2 Collection of the sample must conform to the requirements of AS 23.10.600 -  
3 23.10.699. The employer may designate the type of sample to be used for testing.

4 (c) An employer shall normally schedule a drug test or an alcohol impairment  
5 test of employees during, or immediately before or after, a regular work period.  
6 Alcohol impairment or drug testing required by an employer is considered to be work  
7 time for the purposes of compensation and benefits for current employees.

8 (d) An employer shall pay the entire actual costs for drug testing and alcohol  
9 impairment testing required of employees. An employer shall also pay reasonable  
10 transportation costs to an employee if the required test is conducted at a location other  
11 than the employee's normal work site. An employer is not required to pay the costs  
12 of drug testing of prospective employees.

13 Sec. 23.10.640. TESTING PROCEDURES. (a) Sample collection and testing  
14 for alcohol impairment and drugs under AS 23.10.600 - 23.10.699 shall be performed  
15 under reasonable and sanitary conditions. The person collecting samples shall  
16 document the sample, including labeling the sample to preclude to the extent  
17 reasonable the possibility of misidentification of the person tested in relation to the test  
18 result provided, and shall provide the person to be tested with an opportunity to  
19 provide medical information that may be relevant to the test, including identifying  
20 current or recently used prescription and nonprescription drugs.

21 (b) Sample collection, storage, and transportation to the place of testing shall  
22 be performed in a manner reasonably designed to preclude the possibility of sample  
23 contamination, adulteration, or misidentification.

24 (c) Sample testing must comply with scientifically accepted analytical methods  
25 and procedures. Drug testing shall be conducted at a laboratory approved or certified  
26 by the United States Department of Health and Human Services, the College of  
27 American Pathologists, or the state Department of Health and Social Services.

28 (d) For employees, drug testing must include confirmation of a positive drug  
29 test result. The confirmation must be by use of a different chemical process than was  
30 used in the initial drug screen. The second or confirmatory drug test shall be a  
31 chromatography mass spectrometry or other reliable chromatographic technique.

1           Sec. 23.10.650. DISCIPLINARY PROCEDURES. (a) An employer may take  
2 adverse employment action based on

3                   (1) a positive drug test or alcohol impairment test result that indicates  
4 a violation of the employer's written policy;

5                   (2) the refusal of an employee or prospective employee to provide a  
6 drug testing sample; or

7                   (3) the refusal of an employee to provide an alcohol impairment testing  
8 sample.

9           (b) Adverse employment action under (a) of this section may include

10                   (1) a requirement that the employee enroll in an employer provided or  
11 employer approved rehabilitation, treatment, or counseling program; the program may  
12 include additional drug testing and alcohol impairment testing; the employer may  
13 require participation in the program as a condition of employment; costs of  
14 participating in the program may or may not be covered by the employer's health plan  
15 or policies;

16                   (2) suspension of the employee, with or without pay, for a designated  
17 period of time;

18                   (3) termination of employment;

19                   (4) in case of drug testing, refusal to hire a prospective employee; and

20                   (5) other adverse employment action.

21           Sec. 23.10.660. CONFIDENTIALITY OF RESULTS; ACCESS TO  
22 RECORDS. A communication received by an employer relevant to drug test or  
23 alcohol impairment test results and received through the employer's testing program  
24 is a confidential communication and may not be disclosed except

25                   (1) to the tested employee or prospective employee or another person  
26 designated in writing by the employee or prospective employee;

27                   (2) to individuals designated by an employer to receive and evaluate  
28 test results or hear the explanation of the employee or prospective employee; or

29                   (3) as ordered by a court or governmental agency.

30           Sec. 23.10.670. COLLECTIVE BARGAINING. An employer who follows the  
31 provisions of a drug testing or alcohol impairment testing policy negotiated or

1 bargained to impasse with the collective bargaining representative of the employer's  
2 employees or consistent with the terms of a collective bargaining agreement shall  
3 receive the full benefits of AS 23.10.600 - 23.10.699 even if the policy is not  
4 consistent with AS 23.10.600 - 23.10.699.

5 Sec. 23.10.680. EFFECT OF MANDATORY TESTING OBLIGATIONS. An  
6 employer who is obligated by state or federal requirements to have a drug testing or  
7 alcohol impairment testing policy or program shall receive the full benefits of  
8 AS 23.10.600 - 23.10.699 even if the required policy or program is not consistent with  
9 AS 23.10.600 - 23.10.699, so long as the employer complies with the state or federal  
10 requirements applicable to the employer's operations.

11 Sec. 23.10.699. DEFINITIONS. In AS 23.10.600 - 23.10.699,

12 (1) "alcohol" means ethanol, isopropanol, or methanol;

13 (2) "drug" means a substance considered unlawful under AS 11.71 or  
14 the metabolite of the substance;

15 (3) "drug testing" means testing for evidence of use of a drug;

16 (4) "employee" means a person in the service of an employer;

17 (5) "employer"

18 (A) means a person who employs one or more full-time  
19 employees under a contract of hire, express or implied, oral or written;

20 (B) does not include the state, a municipality or other political  
21 subdivision of the state, or the federal government;

22 (6) "good faith" means reasonable reliance on fact, or that which is held  
23 out to be factual, without the intent to deceive or be deceived and without reckless or  
24 malicious disregard for the truth;

25 (7) "prospective employee" means a person who has made application  
26 to an employer, whether written or oral, to become an employee;

27 (8) "sample" means urine or breath from the person being tested.

# House Labor & Commerce Committee

State Capitol  
Juneau, Alaska 99801-1182  
907-465-4954

## HB 522 SPONSOR STATEMENT

In 1987 two trains collided near Baltimore, an event which resulted in 16 fatalities and 174 injuries. Shortly before the accident, an engineer and a brakeman smoked marijuana.

Perhaps one of the largest factors eroding workplace safety and productivity is employee drug and alcohol impairment. As a consequence, mandatory employee drug and alcohol testing is becoming increasingly common. Currently, it is estimated that over 53,000 Alaskan workers are subject to testing under federal law.

HB 522 would permit Alaska employers to implement and enforce mandatory drug and alcohol testing of employees and prospective employees. Employers are not required to do so, but they are granted that option.

Employers who comply with the bill's numerous requirements are granted a certain limited immunity from litigation. They may not be sued for actions taken in good faith as a result of a positive drug or alcohol test. They are not liable for a failure to test for alcohol or drugs. They are not liable for a failure to test for a specific drug. They are not liable for a failure to detect a specific drug. In addition, they are not liable for terminating or suspending a drug or alcohol prevention program or policy.

HB 522 contains important safeguards ensuring that employees are fully apprised of the nature, scope, and potential consequences of testing programs. It requires that testing be done under reasonable and sanitary conditions that comply with scientifically accepted analytical methods and procedures. It contains provisions protecting the confidentiality of the results of testing.

If enacted into law, HB 522 would not mandate but would encourage Alaska employers to implement employee alcohol and drug abuse testing programs. This, in turn, would enhance job productivity and safety. Your support is urged.

# House Labor & Commerce Committee

State Capitol  
Juneau, Alaska 99801-1182  
907-465-4954

## SECTIONAL DISCUSSION HB 522

At the outset, please note that the following does not purport to be a definitive discussion of the bill. The best statement of its contents is the bill itself.

### Section 1:

AS 23.10.600 grants certain immunities to employers who have established drug and alcohol testing policies and programs under the provisions of this bill. The immunities include: (1) Good faith actions taken in response to positive drug or alcohol tests; (2) Failure to test for drugs or alcohol; (3) Failure to test for or detect a specific substance, medical or mental condition, emotional disorder, or psychological disorder; and, (4) Termination of a testing or prevention program. This section provides that employers that have instituted programs which meet the requirements established in this bill are immune from liability for actions taken in response to a drug or alcohol test except where there is a false positive and the employer knew or should have known that the results were erroneous.

AS 23.10.610 provides certain restrictions on the ability of employees to bring defamation actions when the results of drug and alcohol tests are disclosed to third parties.

AS 23.10.615 provides that compliance with the bill's provisions is voluntary and that no cause of action will lie for failure to institute a testing policy in compliance with the provisions of this bill.

AS 23.10.620 provides that employers may test for drugs or alcohol after adopting a written policy and disseminating copies to affected employees. This section also establishes certain minimum elements of the written policy. The policy must include all compensated employees, including officers and directors. Employers may require testing for any job-related purpose consistent with business necessity and the written policy. Grounds for testing include, in part, investigation of impairment, investigation of accidents, maintenance of safety, maintenance of productivity, and reasonable suspicion that an employee is affected by the use of drugs or alcohol and that this use is

adversely affecting job performance or the work environment. Random testing is authorized.

AS 23.10.630 provides that employers may require employees to be tested for drug or alcohol impairment. Prospective employees may be required to be tested for drugs. Employees and prospective employees may be required to provide samples of urine, blood, breath, saliva, hair, or other bodily substance. Tests must normally be scheduled immediately before, during, or immediately after regular work periods. Testing is to be considered work time for purposes of compensation. The employer is to pay all costs of testing of employees, but not prospective employees.

AS 23.10.640 establishes testing procedures and standards.

AS 23.10.650 grants employers the right to take adverse employment action based on a positive test or a refusal to take a test.

AS 23.10.660 prescribes standards of confidentiality with respect to the results of tests. Results are considered to be a confidential communication and may not be disclosed except to the employee or someone designated by the employee, individuals designated by the employer to receive and evaluate test results, or as ordered by a court or a governmental agency.

AS 23.10.670 provides that employers who comply with the provisions of a testing policy negotiated and included in a collective bargaining agreement, or bargained to impasse, are entitled to the protections accorded by this bill even if the policy is not consistent with the provisions of this bill.

AS 23.10.680 provides that employers who comply with federal or state requirements concerning mandatory testing policies are entitled to the protections accorded by this bill even if the policies do not conform with the provisions of this bill.

AS 23.10.680 is a definitional section.

Section 2 disqualifies workers who have been discharged as a result of failing to pass, or refusing to take, a drug or alcohol test from waiting-week credit for purposes of unemployment insurance compensation. Such workers are also disqualified for the following five weeks.

Section 3 provides that individuals who fail to pass or refuse to take a drug or alcohol test administered under the provisions of this bill and are discharged are considered to have been discharged for misconduct for purposes of AS 23.20.406 (h), concerning extended unemployment benefits.

**A & B****TOOL & EQUIPMENT RENTAL, Inc.***"WASILLA AT THE LIGHT"*

465-2819

2-22-96

REPRESENTATIVE PETE KOTT:

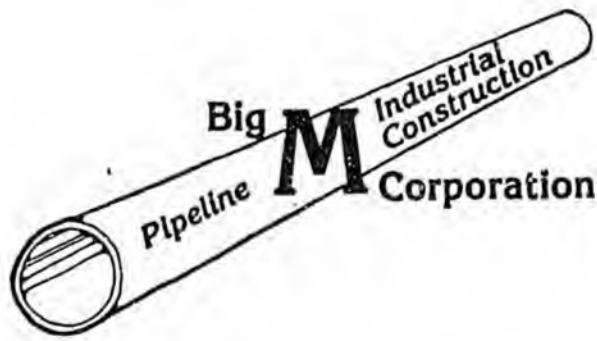
ALLVEST LABORATORIES INC FAXED ME INFORMATION ON YOUR BILL REGARDING EMPLOYER DRUG AND ALCOHOL TESTING PROGRAM. THIS WILL GREATLY HELP THE ALASKAN EMPLOYER WHO IS UNDER LIABILITY EVERY WHERE. IF THERE IS ANYTHING I CAN DO OR ANYONE I CAN WRITE TO REGARDING THIS BILL PLEASE LET ME KNOW. I WOULD LIKE TO RECEIVE A COPY OF THIS BILL AND BE ABLE TO FAX TO OTHER RENTAL CENTERS IN ALASKA AS WE HAVE AN ORGANIZATION CALLED ARA OF ALASKA AND WE TRY TO KEEP EVERYONE POSTED AS TO WHAT IS GOING ON IN JUNEAU. PLEASE FAX ME A COPY OF THIS BILL.

SINCERELY,

ANDREA M. BYERS  
SEC. TREAS.

(907) 376-5321 • FAX: (907) 376-2434 • 450 E. RAILROAD AVE. • WASILLA, ALASKA 99654

SUPPORT



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February 21, 1996

Representative Pete Kott  
State Capital  
Juneau AK 99801

RE: House Bill 522

Dear Pete Kott:

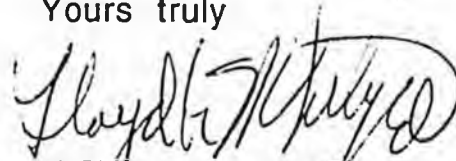
I would like to pass on our support of your proposed House Bill 522 relating to drug and alcohol testing.

Big M Corporation is a Pipeline Contractor and we have had a Drug and Alcohol Testing Policy in force for several years. We have been testing employees in both new pipeline construction and pipeline repair work. I am sure having this Drug Testing Policy in force has saved us from litigation. I feel very strongly that your proposed House Bill 522 needs to pass.

Whatever you can do to move this Bill through the House and Senate to make it a law would be greatly appreciated.

If I can be of any help, feel free to call.

Yours truly



LLOYD K. McINTYRE  
President



**GREATLAND AIR CARGO INC.**

*Making Tracks with your Freight*

*Operating DeHavilland Caribou Aircraft*

February 21, 1996

Representative Pete Kott  
State Capital  
Juneau, AK 99801

Dear Representative Kott:

I would like to express my support for the bill before the House Labor and Commerce Committee relating to "employer drug and alcohol testing programs". I believe the bill will encourage employers to have a written policy and follow the guidelines of the proposed statute in order to limit their liability from litigation. Given the litigious nature of our society, this bill will be an important step in protecting employers from frivolous lawsuits. In addition, by following the guideline of the statute, hopefully situations can be avoided that might lead to such litigation.

I hope you will support the bill when it comes before your committee. Thank you for your consideration of this issue.

Very truly yours,

Kim Boger  
President

*Anchorage International Airport  
3600 International Airport Road Suite #2  
Anchorage, Alaska 99502  
19071 243-1176*

**(800) 543-4476**

**NENANA HEATING SERVICES, INC.**

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P O. Box 9  
Nenana, AK 99760-0009

February 21, 1996

Representative Pete Kott  
State Capital  
Juneau, AK 99801

Dear Mr. Kott,

I am writing to let you know that I support your drug and alcohol testing Bill. I don't have the number of the bill but I am sure you know what it is. Please let others know that any bill that simplifies and protects small business is appreciated.

Sincerely,

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

Nancy J. Shaw  
Secretary, NHS



# Allvest Laboratories, Inc.

611 E. 12th Avenue, Suite 102, Anchorage, Alaska 99501

HB522

(907) 274-6666

Fax (907) 272-9242

January 25, 1996

Representative Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capital, Room 208  
Juneau, Alaska 99801

Dear Madam Speaker,

My name is Matthew T. Fagnani and I am President of Allvest Laboratories, Inc. (ALI). Allvest Laboratories is a drug and alcohol testing company. For the past year I have been trying to get legislation submitted that will establish guidelines for workplace drug testing. Last year I met with Representative Pete Kott and Senator Tim Kelly. Rep. Kott was interested in the bill but wanted to know what Sen. Kelly's view point was, so I focused my efforts on Senator Kelly. To date, he has not introduced the legislation.

The State of Arizona in 1994 passed House Bill 2220 (enclosed), which established uniform standards and requirements regarding drug testing of employees and prospective employees. Currently in Alaska, there are no set guidelines for non-federally regulated companies to follow for drug testing. A major obstacle for non-regulated companies is the liability faced once the decision is made to drug test. The only legal reference Alaska has regarding non-regulated testing is the *Luedtke vs. Nabors Drilling* Supreme Court decision. *Luedtke vs. Nabors Drilling* allows for drug testing if a company has a reasonable safety need to test.

This type of legislation would be beneficial for Alaskan employers as well as employees. Creating an Alaskan statute that sets drug testing standards would enable the implementation of workplace testing programs while decreasing company liability. The employees would also know that the testing programs the employers are conducting meet high state standards. Providing that companies follow the state's recommendations, this legislation would help protect employers who want to drug test.

We need to act as soon as possible on these changes to capitalize on the momentum created by the implementation of the U. S. Department of Transportation, (DOT) Omnibus Employee Drug Testing Act of 1991.

According to July 1993 State of Alaska Department of Labor statistics, Alaska had 599,200 residents. Using this statistic, the number of residents that are currently employed is 277,991. As of January 1, 1996 **over 53,000 Alaskans are mandated to test** by the federal government DOT. Nineteen percent (19%) of our employed population, or 8.8% of our total state population, is subject to mandatory drug and alcohol testing.

Currently, companies that follow federal regulations have limited liability from employee lawsuits, providing they follow the strict DOT drug and alcohol testing procedures for specimen collection and testing. It makes sense for the State of Alaska to create the same environment for non-regulated companies and their employees that is enjoyed by DOT regulated companies and their employees.

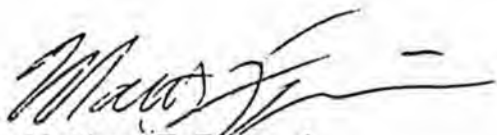
I am faxing this to you for your review. An original will be mailed to your office. I will be in Juneau February 14 and would appreciate the opportunity to discuss this with you and Representative Kott. I would appreciate your assistance in getting this submitted to the Labor and Commerce committee for evaluation.

If you have questions I can be reached at 907-274-6662.

Thank you for your time and consideration.

Sincerely,

ALLVEST LABORATORIES, INC.



Matthew T. Fagnani  
President

enclosures:

Arizona House Bill 2220  
Anchorage Daily New 1/23/96



March 5, 1996

Representative Pete Kott  
State Capitol  
Room 432  
Juneau, AK 99801-1182

Dear Representative Kott:

On behalf of the Alaska Council on PREVENTION of Alcohol and Drug Abuse, I would like to offer our support for HB 522.

This bill's passage and implementation will greatly reduce the employer's liability from drug and alcohol tests that are positive. Therefore, more companies may choose to drug test their employees. Through the procedures outlined in HB 522, an employer can establish a clear drug testing policy. This will promote and provide a safe, drug-free working environment for all employees.

The Alaska Council supports all aspects of this bill as it is written. We urge your favorable action on it. Thank you for your time and attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'C-Joe DiMatteo', with a long horizontal stroke extending to the right.

C-Joe DiMatteo  
Executive Director

cc: Matthew T. Fagnani, President  
Allvest Laboratories

## MILLS CONSTRUCTION & SUPPLY

P.O BOX 142  
GUSTAVUS, AK 99826  
FAX (907) 697-2365

(907) 697-2324

3-2-96

Representative Pete Kott  
State Capital  
Juneau, AK 99801

Re: Employer drug and alcohol testing. HB 522

Dear Representative Kott,

I would like to express my dissatisfaction with this type of legislation and ask that you reconsider your proposal.

The first thing wrong with it is written in the name. It should be employee, not employer. Putting the burden on the employer to pay for and manage a program of this type will be very expensive to small companies such as ours. Further, employers do not, and should not, have control of individuals personal lives. The employee should bear the cost as incentive to obtain a passing result. An example would be the flight physical required for pilots. It seems as though you have copied a bill that the employee will perceive the employer as the bad guy and not the legislator. I resent this.

As an employer, I see another stack of paperwork on my desk with absolutely no gain to me. As I sit here and read this bill, it strikes me that there is really no protection for me from litigation. I suspect that in the eyes of attorneys, this is just an exercise providing more billable hours in court. For me, however, it simply looks to be another weapon which can be used against me if a mistake is made. My business survives by moving dirt, not paper.

I get angry when I hear a liberal politicians mantra wondering what is happening to the American way of life. It is being choked out of us one page at a time, one fine at a time, and one lawsuit at a time. Some mystery. Rather than play with our kids after work, my wife and I will now be able to monitor a program that we first must take the time to create. We will follow a written policy that I believe will provide very little, if any, legal protection or increased public safety. And, oh yes, we can pay for it with that extra pile of cash we keep in our desk drawers. Weil, at least you legislators will have the appearance of doing your part to protect us and that is what counts in the political world, I suppose.

It is no surprise that small companies using employees with CDLs are now forced to comply with this federal mandate. Rather than rushing out to adopt such a program, I suggest you investigate the merit of the mandate itself. I see no statistics supporting the need for such testing. Where are the results that conclude such testing has been a great safety improvement on the highway system? All that I read and hear suggest that these drug tests are less than reliable, have many false positives, and are easily beaten if one wants to. I suspect this bill has more to do with jcb protection than public safety.

Respectfully,

Dan Mills  
MCS

CC: Rep. Mauley  
Sen. Zaroff  
Gov. Knowles

# TRADING BAY ENERGY CORPORATION

March 14, 1996

The Honorable Cynthia Toohey  
and  
The Honorable Con Bunde  
Co-Chairs House HESS Committee  
Alaska State Capitol (MS3100)  
Juneau, Alaska 99801-1182

RE: Hearings for HB 522 - Drug & Alcohol Testing Programs

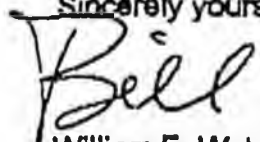
Dear Chairpersons Toohey and Bunde:

Many employers have discovered that an effective drug test program greatly increases their ability to provide a safe and productive work place for their employees. My own experience is one of frustrated safety programs in the non test environment and greatly successful safety programs in the tested environment. My last employer, CTI Alaska, Inc., tested all employees at hire, at random, for cause and after incident. At the time I left CTI in January, we had achieved over 1,200,000 hours worked without a lost time accident. I am convinced that this achievement would be impossible in the 1990's without an effective drug testing program.

HB522 address the main reason expressed to me by fellow business people who do not have drug test programs ... fear of lawsuits. While it is debatable if this fear is justified or not, the fear is real with many business owners and managers resulting in reduced testing.

I encourage you to schedule hearings on HB522 and send this bill on its way to passage. Alaska's employees will be safer because you moved this bill.

Sincerely yours,



William F. Webb  
President

CC: Speaker Gail Phillips

825 West 8<sup>th</sup> Avenue, Suite 204  
Anchorage, Alaska 99501

Telephone: 907-279-5655  
Fax: 907-279-5844



April 3, 1998

Representative Pete Kott  
State Capital  
Juneau, Alaska 99801  
via facsimile (907) 465-2819

Subj: House Bill No. 522 Drug and Alcohol Testing

Dear sir,

I would like to take this opportunity to voice support for House Bill No. 522. VECO feels this bill would be of benefit to Alaskan employers who endeavor to provide a safe and drug free workplace for their employees.

Sincerely,

James H. Slack  
Vice President, Manager of Personnel Services

# Maniilaq Association

P.O. Box 256  
Kotzebue, Alaska 99752  
(907) 442-3311

March 26, 1996

Representative Pete Kott  
State Capital (MS 3100)  
Juneau, AK 99801

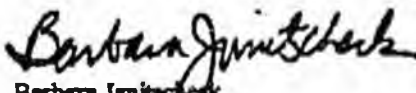
Dear Representative Kott:

I am writing to notify you of Maniilaq Association's support of the proposed House Bill No. 522.

As a tribal organization in Alaska, Maniilaq Association must be a leader in the movement to eradicate the catastrophic effects of illegal drugs and alcohol on the people and culture of Northwest Alaska. Accordingly, just this past year Maniilaq implemented a Drug and Alcohol Free Workplace policy, which includes pre-employment, random, for cause and post accident drug testing; and for cause alcohol testing. This policy has assisted the organization in providing its employees with a safer and more productive workplace and our clients and patients with a higher quality of service.

House Bill No. 522, by providing standardized guidelines for the implementation of quality drug testing programs in the Alaska work place, proves beneficial for both employers and employees. Alaskan businesses need standards by which they can conduct drug testing that would limit their liability and establish a clear drug policy while guaranteeing the rights of employees. PLEASE SUPPORT HOUSE BILL NO. 522.

Sincerely,



Barbara Janitschek  
Acting CEO/President

## MEMBER VILLAGES

Ivitoappaat, Nunatchik, Ipmatchik, Katiyak, Kivalik, Iaugvik, Qikiqtalik, Nauyasq, Nuurvik, Akullig, Ishneq  
Ambler, Buckland, Deering, Kiina, Kivalina, Kobuk, Kotzebue, Noatak, Nuurvik, Selawik, Shungnak



Representative Pete Kott  
State Capital (MS 3100)  
Juneau, Alaska 99801

March 24, 1996

Dear Representative Kott,

Holland America Line-Westours Inc. and our subsidiaries Westmark Hotels and Gray Line of Alaska are committed to providing a safe and productive work environment for our employees, as well as, superior service for our passengers and guests. For some time we have had drug testing programs in place in our Alaskan operations and require a majority of our employees to complete a pre-employment drug test. Also, many of our employees are subject to random and post-accident testing. We have found these testing programs to be highly effective in reducing accidents and enhancing the safety of our employees and customers.

We strongly support the legislation that you have proposed. Establishing unambiguous drug testing policies will guarantee the rights of employees and, at the same time, limit the potential liability to employers.

Yours Truly,

A handwritten signature in dark ink, appearing to read "Robert L. Nielsen", written in a cursive style.

Robert L. Nielsen  
Director, Human Resources

C:\LOTS\UTTE\AMIPRODOCS\BMM\F323B.SAM

**Anchorage Chamber of Commerce  
441 West 5th Avenue Suite 300  
Anchorage, Alaska 99501  
272-2401 272-4117 fax**

To: Alaska State Legislators & Governor Knowles  
From: The Anchorage Chamber of Commerce  
The following resolution was passed by the Anchorage Chamber of Commerce.  
Please consider this passage of HB522 this session.  
Thank You

**Anchorage Chamber of Commerce  
Employer Drug and Alcohol Testing Programs (HB 522)  
Resolution 95/96-12**

**WHEREAS**, the Anchorage Chamber of Commerce is concerned about and promotes workplace safety and productivity, and

**WHEREAS**, HB 522, relating to employer drug and alcohol testing programs has been introduced, and

**WHEREAS**, HB 522 will help establish a clear drug testing policy for Alaska businesses while guaranteeing the rights of both employers and employees:

**WHEREAS**, HB 522 would limit or remove employer tort and employment contract breach liability for errors and omissions arising in good faith employee drug testing in the context of established employee drug and alcohol testing programs, and

**WHEREAS**, the limiting or elimination of laboratory and employer tort liability arising from established employee workplace drug and alcohol testing will foster workplace safety, employee welfare and productivity;

**NOW THEREFORE BE IT RESOLVED** by the Anchorage Chamber of Commerce that it encourages the passage and enactment of HB 522.

Approved: April 5, 1996

Sue Linford Chairman 1995-96

Carol Heyman President

# **STEPHAN'S**

**TOOL RENTAL & SALES, INC.**  
**ANCHORAGE, ALASKA**

Phone (907) 349-4425 Fax (907) 349-9683

03/19/96

Representative Pete Kott  
State Capital (MS 3100)  
Juneau, Ak. 99801

Please record my support for (HB) 533 "An act relating to employer drug and alcohol testing programs". This Bill while reducing employer liabilities also encourages responsibility and establishes standardized testing procedures.

Thank you

Sincerely

Shawn Stephan ( President, Owner )

*The passage of House Bill 522 is important for all Alaskans!*

- Employers want to provide safe and productive work environments for all their employees.
- Effective drug testing programs reduce risk and lower the cost of insurance and worker's compensation claims.
- Alaskan businesses need standards by which they can conduct drug testing that would limit their liability.
- Establishing a clear drug testing policy for Alaskan businesses while guaranteeing the rights of employees makes sense.
- By providing standardized guidelines for the implementation of quality drug testing programs in the Alaska work place, this legislation is beneficial for both employers and employees.

I support House Bill No. 522 for the reasons listed above:

NAME: Mike Stackhouse / Safe Worker Coordinator DATE: 3-6-96  
COMPANY: North Slope Borough Personnel Department  
ADDRESS: P.O. Box 69 Barrow, AK. 99723  
SIGNATURE: Michael R. Stackhouse

SPONSORED BY ALLVEST LABORATORIES



**Al & Jeanine St. John**  
**P. O. Box 211043**  
**Anchorage, AK 99521**  
**(907)564-5758**

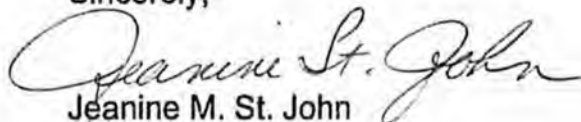
March 12, 1996

Representative Pete Kott  
State Capitol (MS3100)  
Juneau, AK 99801-1182

Dear Pete,

I just wanted to let you know that I strongly support HB No. 522. Any legislation that decreases the cost of doing business is very important. An established and recognized set of standards for drug testing, and clear limitation of liability will have a positive effect on the ability of employers to implement effective programs for their employees. The issue here is not safety, because employers and employees alike want to be safe, but the issue is clarity and support for the safe workplace. Employers who comply with drug testing programs should be able to reap the benefits of reduced risk and reduced cost of doing business by insurance and worker's compensation reductions.

Sincerely,

  
Jeanine M. St. John

cc: HESS Committee  
Labor & Commerce Committee  
Finance Committee

veloped a sudden difficulty in walking and a disturbed gait, which happened to be due to a carnitine deficiency; neurological symptoms resolved after adequate supplementation. Shortly before turning 4 years of age, CH-1 had to be admitted for a severe metabolic acidosis (pH 7.22), accompanied by lethargy, dysarthria, and ataxia. An 80-mL urine sample collected soon after admission demonstrated an extremely high D-lactate excretion, 40 000 mmol/mol creatinine, whereas L-lactate excretion was only 400 mmol/mol creatinine. Because neurological symptoms and acidosis resolved after administration of an oral prokinetic (cisapride) and a phosphate enema, we assume that intestinal stasis and the resulting excessive fermentation precipitated the metabolic acidosis.

References

1. Vanderhoof JA, Langnas AN, Pinch LW, Thompson JS, Kaufman SS. Short bowel syndrome. *J Pediatr Gastroenterol Nutr* 1992;14:359-70.
2. Rosenthal P, Peece M. Long-term monitoring of D-lactic acidosis in a child. *J Pediatr Gastroenterol Nutr* 1985;4:674-6.
3. Bongaerts G, Tolboom J, Naber T, Bakkeren J, Severijnen R, Willems H. D-Lactic acidemia and aciduria in pediatric and adult patients with short bowel syndrome. *Clin Chem* 1996;41:107-10.
4. Kardon M, Rettmer RL, Lipkin EW. Effect of parenteral nutrition and enteral feeding on D-lactic acidosis in a patient with short bowel. *J Parenter Enter Nutr* 1987;11:586-9.

Ger Bongaerts<sup>1,\*</sup>  
 Jules Tolboom<sup>2</sup>  
 Ton Naber<sup>3</sup>  
 Jan Bakkeren<sup>4</sup>  
 Bené Severijnen<sup>5</sup>  
 Hans Willems<sup>6</sup>

Depts. of <sup>1</sup> Med. Microbiol.,  
<sup>2</sup> Pediatr., <sup>3</sup> Gastroenterol. and  
 Hepatol., <sup>4</sup> Pediatr. Surgery, and  
<sup>5</sup> Clin. Chem.  
 Univ. Hosp. Nijmegen St. Radboud  
 P.O. Box 9101, NL-6500 HB  
 Nijmegen  
 The Netherlands

\* Author for correspondence.

**Snack Crackers Yield Opiate-Positive Urine**

To the Editor:

With the prevalent use of urine screening to give an indication of drug abuse, the ingestion of food products

that give rise to opiates in the urine poses a significant problem. Instances of opiate-positive urine samples resulting from the ingestion of poppy seed-containing baked goods have been well documented in the scientific literature (1-6). The Department of Defense has addressed this problem in their drug monitoring programs by setting urine opiate confirmation cutoff concentrations so high that positive results from the ingestion of poppy seeds in baked goods are unlikely (morphine cutoff = 4 mg/L, codeine cutoff = 2 mg/L) (2). However, the National Institute on Drug Abuse (NIDA) continues to maintain the lower confirmation cutoff value of 0.30 mg/L, making interpretation of results more difficult as to whether illicit use of opiates has occurred.

A young woman on federal probation contacted our laboratory alleging her opiate-positive urine was the result of ingesting one-half box of poppy seed-containing "Sociables" snack crackers (Nabisco Foods, East Hanover, NJ) ~2 h before a mandated urine screening. After a review of the scientific literature, we found no instances of opiate-positive urine resulting from commercially available snack crackers and, therefore believed the scenario to be unlikely. However, to test the allegation of the probationer, two male volunteers with no history of opiate use each ingested one-half box (115 g) of Sociables snack crackers over a 30-min period. A preingestion urine specimen and all postingestion urine specimens collected in the next 27 h were assayed for opiates by Emit-st (Syva Co., Palo Alto, CA) by

the manufacturer's protocol. The Syva-supplied calibrator at 0.30 mg/L was used as the cutoff for a presumptive positive.

Morphine and codeine concentrations in the urines were isolated by liquid/liquid extraction and quantitated by selected-ion gas chromatography-mass spectrometry (GC-MS) on a Hewlett-Packard (Palo Alto, CA) 5970 GC-MS system. Full-scan confirmation of morphine was obtained in samples from each volunteer.

Emit-st testing showed positive urine opiate results for the first and second post-ingestion voids for each volunteer, collected ~5 and 9 h post-ingestion. Results for subsequent voids were below the GC-MS cutoff (0.30 mg/L), but Emit-st values remained above the preingestion values of both volunteers for 26 h.

The GC-MS quantitations (Fig. 1) show morphine concentrations of 0.28 and 0.29 mg/L for the first and second voids, respectively, for volunteer 1. Volunteer 2 showed morphine concentrations of 0.32 and 0.17 mg/L for the first and second voids, respectively. The GC-MS data generally followed the results obtained from the Emit-st testing. Codeine was detected in one specimen from volunteer 1 at a concentration of <0.10 mg/L.

We also assayed the snack crackers for opiate content by GC-MS. The total morphine concentration was 2.2 µg/g of cracker. Ingestion of 115 g of snack crackers would include 266 µg of morphine. Concentrations of morphine per gram of poppy seed have been reported to range from 1.5 to 963 µg/g in seeds of various origins (1). In

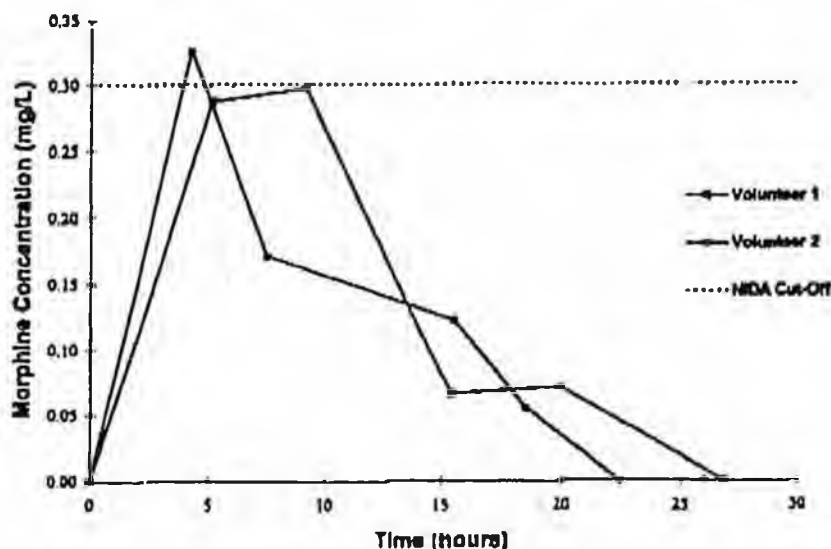


Fig. 1. Morphine quantitation of urine by GC-MS vs time after ingestion of poppy seed-containing crackers.

Preingestion urine specimens were taken at time 0. The crackers were eaten during the next 30 min.

one study maximum urine morphine concentrations ranged from 0.26 to 11.6 mg/L after subjects ingested various types of poppy seed-containing bakery goods (2).

From this study we conclude that the opiate-positive urine of the young woman on probation could have resulted from the ingestion of the Sociables snack crackers. After receiving permission from the woman's probation officer, we checked the records of the laboratory performing the testing and found that the morphine confirmation concentration of the probationer was just above the 0.30 mg/L cutoff. This concentration is not inconsistent with poppy seed ingestion, as evidenced by this study. After we presented the initial results of this

study to the probation officer, the probationer was monitored more closely for the next few months, but her probation was not revoked.

#### References

1. ElSohly MA, Jones AB. Morphine and codeine in biological fluids: approaches to source differentiation. *Forensic Sci Rev* 1989;1:18-21.
2. Selavka CM. Poppy seed ingestion as a contributing factor to opiate-positive urinalysis results: the Pacific perspective. *J Forensic Sci* 1991;36:685-96.
3. Hayes LW, Krasselt WG, Mueggler PA. Concentrations of morphine and codeine in serum and urine after ingestion of poppy seeds. *Clin Chem* 1987;33: 806-8.
4. Pettitt BC, Dyszel SM, Hood LVS. Opiates in poppy seed: effect on urinalysis results after consumption of poppy seed cake-filling. *Clin Chem* 1987;33:1261-2.
5. ElSohly HN, Stanford DP, Jones AB, ElSohly MA, Snyder H, Pedersen C. Gas chromatographic/mass spectrometric analysis of morphine and codeine in human urine of poppy seed eaters. *J Forensic Sci* 1988;33: 847-66.
6. Minicely KD. Poppy seed ingestion: the Oregon perspective. *J Forensic Sci* 1992; 37:1158-62.

J. Rod McCutcheon<sup>1</sup>  
Patrick G. Woods

*Forensic Toxicol.*  
Travis Co. Office of the Med.  
Examiner  
P.O. Box 1748  
Austin, TX 78767

<sup>1</sup> Author for correspondence.

#### Errata

In the article by Fossati et al. entitled "A step forward in enzymatic measurement of creatinine," 1994;40:130-7, suppliers of sera were mistakenly identified. Sera were supplied by the German Society of Clinical Chemistry. Creatinine concentrations were determined by isotope dilution-gas chromatography-mass spectrometry in three laboratories (D. Stöckl, INSTAND e. V., Düsseldorf; L. Siekmann, Institut für Klinische Biochemie, Bonn; A. De Leanbeer/L. M. Thienpont, Universiteit Gent, Fac. Farmac. Wetenschapen, Gent), participants in the interlaboratory comparison exercise "Creatinine in Serum" (EC M+T project 376).

In the article by Taneda and Monnier entitled "ELISA of pentosidine, an advanced glycation end product, in biological specimens," 1994;40:1766-73, line 20 of the abstract should state "2630 ± 1320 nmol/L, respectively"; on page 1770, column 1, line 17, the units should have been expressed as nmol/L, not μmol/L. The units of pentosidine in Figures 8-10 contain errors. Figure 8 should state: Pentosidine by HPLC (nmol/L plasma), not (μmol/L plasma). Figure 9 should state: Pentosidine (nmol/L plasma), not (μmol/L plasma). Figure 10 should state: Pentosidine (nmol/g collagen), not μmol/g collagen).

In the review by Kroll and Elin entitled "Interference with clinical laboratory analyses," 1994;40:1996-2005, the theophylline reagents used for the Hitachi 717 were obtained from GDS Diagnostics, Elkhart, IN. On page 1998, column 1, line 32, reference 32 was incorrectly cited; the correct reference is 37. On page 1998, column 2, line 17, reference 37 is listed in error.

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 522

Revision Date: \_\_\_\_\_  
 Title: An act relating to employer drug and alcohol testing programs  
 Sponsor: House Labor and Commerce  
 Requestor: House Health, Education & Social Services

Dept. Affected: Health and Social Services  
 BRU: State Health Services  
 Component: Laboratory Services  
 COMPONENT SERIAL NO. 291  
 See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill would have no impact on the Division of Public Health.

Prepared by: Peter M. Nakamura, MD, MPH  
 Division: Public Health  
 Approved by Commissioner: Karen Perdue, Commissioner  
 Agency: Department of Health & Social Services

Phone: (907) 465-3090  
 Date: 04/12/96

Date: 4/15/96

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# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO.** HB 522

Revision Date: \_\_\_\_\_

Department Affected: Labor

Title: Employment Drug Testing Program

BRU: Employment Security

Component: \_\_\_\_\_

Sponsor: House L&C

Employment/Unemployment Services

Requestor: House HES

**COMPONENT SERIAL NO.** 1807

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
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<b>CHANGE IN REVENUE</b>						
<b>FUND SOURCE #</b>						

**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ None

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

This bill would restrict litigation and limit causes of action against private employers who implement a drug and alcohol testing program meeting the standards in the bill. Sections 2 and 3 of the bill would amend the Employment Security Act to uniformly suspend unemployment benefits for six weeks if an employee was terminated for failing or refusing to take a test meeting the standard. These changes would not increase the cost of adjudication.

Prepared by: Rebecca Nance, Director Phone: 465-2712

Division: Employment Security Date: 4/16/96

Approved by Commissioner: Tom Cashen, Commissioner

Agency: Department of Labor Date: 4/16/96

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**BILL NO:** HB 522

**DATE:** April 15, 1996

**TITLE:** "An Act relating to employer drug and alcohol testing programs."

**CONTACT:** Dwight Perkins  
465-2700

Section 1 of HB 522 would restrict litigation and limit causes of action against private employers who implement a drug and alcohol testing program as outlined in the section.

Section 2 of the bill would amend the Employment Security Act at AS 23.20.379(a) to deny unemployment insurance (UI) benefits to any worker who fails to pass or refuses to take a drug or alcohol test which meets the standards in Sec. 1 of the bill. A worker discharged for this reason would be deemed discharged for misconduct connected with the work. This section would affect all private employment, but would not add any significant cost to the claim adjudication process. It would, however, change the current standards for adjudicating discharge cases where an employee fails or refuses to take a drug test.

Under AS 23.20.379(a), the department has disqualified workers who fail or refuse a test if there is some indication that the worker is impaired or using drugs on the job, or if the hazards of the job make it mandatory that the employer control even off-duty usage. But all off-duty use, even if illegal, is not necessarily misconduct connected with the work.

Drug-impairment or using drugs on the job is clearly work-connected misconduct. Many discharge cases, however, involve off-duty use, as shown by a positive drug test. In deciding if off-duty use is work-connected, the department determines whether the drug use had a direct adverse impact on the employer's interest or made the worker unfit to perform the job.

If an employer's rule prohibits off-duty use and is reasonably necessary for safety reasons or required by law, then off-duty use is misconduct, because it adversely affects the employer's interest. Simple off-duty use with no impairment on the job and no other adverse affect on the employer's interest is not currently treated as work-connected misconduct.

The bill would impose a blanket disqualification on all employees, regardless of the conditions of the work or the employer's interest in regulating off-duty conduct. It would disqualify workers in industries and occupations in which their off-duty conduct did not pose any significant risk to their fellow workers or their employer's interest. In fact, one of the standards for the testing procedure is that all employees are subjected to the same test, regardless of job duties. The bill blurs the distinction between on-duty and off-duty behavior and does not allow the department to determine whether the behavior actually harmed the employer's interest.

Section 3 of the bill adds the same "fail or refuse" language to the UI extended benefits provision in AS 23.20.406(h). This section is redundant. It is unnecessary to include any misconduct disqualification standards in AS 23.20.406(h), because it already disqualifies any extended benefit claimant who was previously disqualified under AS 23.20.379. The language in Sec. 2 of the bill is sufficient to insure the reach of the disqualification to both regular and extended benefit claimants.



# Alaska State Legislature

Please enter into the record my testimony to the House HB 55 committee name

committee on HB 522, dated 4-16-76 bill/subject

This House Bill 522 seems to be trying to address the issue of drugs & alcohol in the workplace. This is good!

We need to also realize that sometimes a person has a cold, flu, or whatever. This means that they cannot take anything if they plan to work that day, because most cold, flu medicines are off limits.

Also, say a person had allergies & need a medication prescribed by a doctor. Some employers still do not recognize this.

We need a listing of what drugs, alcohol, & their content is or is not approved while working.

DOT requires our drivers when at work to be tested. My employer took this one step further & we are also tested. ~~positives~~ can also hurt. ~~no lawsuit~~ means defamation of character can be gotten away with. ~~if I am an employer~~ ~~hire someone.~~ They should pay for the drug/alcohol testing, not just current employees.

Signed: Hele M. Craig  
Testifier

Representing (Optional)  
6013 Dethroy Av., Delta, AK  
Address

907-747-5917  
Phone No.

**HB**

**523**

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 19, 1996

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2/29/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 523

HOUSE BILL NO. 523

STATE'S POLICY ON SOBRIETY

"An Act expressing the state's policy with respect to sobriety."

recommends it be replaced with the following committee substitute [ ] the same title [ ] a new title

[ ] additional referral to Committee [ ] attached amendment(s)

ADOPTS: Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) [ ] fiscal note(s)

[X] zero fiscal note(s) H+SS [ ] zero fiscal note(s)

Table with 5 columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows include signatures of Tom L. ... and others with checkmarks in the DP column.

CHAIR'S SIGNATURE [Signature]

# STATE OF ALASKA



## *Executive Proclamation* by *Tony Knowles, Governor*

Thousands of Alaskan citizens, as well as public and private agencies, lead or support the concept of sobriety: a positive, healthy, and productive way of life, free from the devastating effects of alcohol and drugs.

Citizens, organizations, and health agencies constitute what is known as the "sobriety movement" in Alaska who are dedicated to educating the public on the prevention of alcohol and drug abuse, and encourage and support those who live a life of sobriety.

In 1995, the Alaska State Legislature and the Administration recognized the important contributions and role the sobriety movement has in:

- (a) Improving the quality of life and health for individuals, families, and communities.
- (b) Reducing the incidence of alcohol and drug related crimes.
- (c) Reducing the burden on local, state, and federal governments to exhaust their resources on the symptoms and problems of substance abuse.

NOW, THEREFORE, I, Tony Knowles, Governor of the State of Alaska, do hereby proclaim March 1996, as:

### *Sobriety Awareness Month (SAM)*

in Alaska, and urge all Alaskans and organizations to support the thousands of men, women, and children who are doing their part to improve the quality of life and health for themselves, families, and communities.

DATED: February 22, 1996



Done by \_\_\_\_\_

*Tony Knowles*

Tony Knowles, Governor  
who has also authorized the seal  
of the State of Alaska  
to be affixed to this proclamation.

# ALASKA FEDERATION OF NATIVES, INC. SOBRIETY MOVEMENT

## AFN/SM MISSION STATEMENT<sup>1</sup> :

The mission of AFN/SM is to encourage and support the growing sobriety movement in Alaska. It is based upon cherished and practiced spiritual values & traditional wisdom's of Alaska's Native people; supporting the collective efforts and activities of individuals, families and communities (public/private agencies), who exemplify, promote and benefit from the pursuit and practice of sobriety: a positive, healthy and productive way of life, free from the devastating effects of alcohol and drugs.

## AFNSM GOALS:

1. To encourage and support alcohol-free and drug-free Native families;
2. To encourage the practice of traditional Native values and activities;
3. To cooperate and support existing groups working to promote sobriety among Alaska Natives;
4. To encourage the formation of sobriety groups in every Alaska Native community;
5. To encourage and support sober Alaska Native leaders and role models;
6. To be non-dependent upon local, state and federal grant subsidies.

## SOBRIETY(Concept Definition<sup>2</sup>):

A Positive, Healthy and Productive *Way of Life*, Free from the Devastating Effects of Alcohol and Drugs.

## SOBRIETY MOVEMENT (Concept Definition<sup>3</sup>):

The collective efforts on the part of individuals, families, and communities, and every public and private agency, effected by, concerned with, and working toward the prevention of alcohol and drug abuse; by example encourage, support and employ those who live a life of sobriety.

## MERITS<sup>4</sup> OF SOBRIETY:

*(The ABC's of Sobriety)*

- A) Improves the quality of life and health of individuals, families and communities;
- B) Reduces the incidence of alcohol and drug related crimes;
- C) Reduces the burden on government in exhausting its resources on the pervasive symptoms and problems caused by alcohol and drug abuse.

<sup>1</sup> August 1995

<sup>2</sup> May 1991

<sup>3</sup> May 1995

<sup>4</sup> February 1995

**DECLARATION  
OF THE  
ALASKA FEDERATION OF NATIVES**

- WHEREAS** the enactment of local option laws by Alaska Native villages has not fully halted the importation and manufacturing of alcohol, even in those communities that have voted themselves dry; and,
- WHEREAS** state and local law enforcement agencies do not have the resources to fully stem the importation and manufacturing of alcohol in all the dry communities; and,
- WHEREAS** the abuse of alcohol in Alaska Native homes and communities continues to be the triggering factor in most accidents, assaults, homicides, and suicides; and,
- WHEREAS** statistical analyses by various state and federal agencies prove that the very presence of alcohol in a home or village significantly increases the likelihood of violence, injury, or death occurring there;
- THE ALASKA FEDERATION OF NATIVES THEREFORE DECLARES** that alcohol and its abuse presents an intimate and imminent threat to the lives, health, and well-being of our children, families, and communities whenever and wherever it is found; and
- IT FURTHER DECLARES** that it shall be the policy of AFN to fully support the efforts of our village governments as they work to keep out and remove alcohol and other illicit drugs from within their jurisdictions, and to utilize every resource available to the statewide Native community to change any state or federal laws that may prevent them from protecting the lives and well-being of our people; and
- IT FURTHER DECLARES THAT** AFN and its membership will redouble their efforts in supporting and promoting **SOBRIETY** as a way of life for all our people.

  
Julie Kitka, President



October 10, 1994

## AFN Sobriety Movement Charter Groups & Honor Societies\*

1. Alaska Native Health Board
2. Alaska Statewide Native Youth Leadership Conference
3. Alaska Village Electric Co-operative
4. Ambler Advisory School Board
5. Anchorage Assembly
6. Arctic Slope Regional Corporation
7. Arctic Winter Games Corporation of Alaska (Team Alaska)
8. Anvil Mt. Correctional Center (Native Culture Club)
9. Alaskans for Drug-Free Youth Statewide Board
10. Bristol Bay Native Association
11. Bristol Bay Native Corporation
12. Bristol Bay Area Health Corporation
13. Central Council - Tlingit & Haida Tribes of Alaska
14. Partnership for a Health Community (Anch.)
15. Chilkoot Indian Association (IRA)
16. Cook Inlet Tribal Council
17. Cook Inlet Pre-Trial Facility (Native Culture Club)
18. Dillingham Beaver Round-Up Festival Association
19. Elim IRA Council
20. Eyak Tribal Council
21. The Eskimo-Indian-Aleut Publishing Co. (Tundra Times)
22. Fairbanks Native Association
23. Fairbanks Correctional Center
24. Golovin Native Corporation
25. Governor's Advisory Board on Alcohol & Other Drugs
26. Heartbeat Alaska
27. Highland Mt./Meadow Creek Correction Center (Native Culture Club)
28. Kawerak, Inc.
29. Kodiak Tribal Council
30. Ketchikan Correctional Center (Native Culture Club)

\*Passed AFN/SM's Resolution "Draft" for become a Charter Group or Honor Society.

31. Levelock Village Council
32. Lemon Creek Correctional Center (Native Culture Club)
33. MTNT Limited
34. Maniilaq Association
35. National Family Partnership for Drug-Free Youth
36. NANA Regional Corporation
37. Nome Native Youth Leadership Council
38. Norton Sound Health Corporation
39. New Stuyakhok Traditional Council
40. North Slope Celebration of Sober Life Movement
41. Old Harbor Tribal Council
42. Ouzinkie Tribal Council
43. Pt. MacKenzie Rehabilitation Center (Native Culture Club)
44. Palmer Correctional Center (Native Culture Club)
45. Qinarmiut Corporation
46. Qawalangin - Tribe of Unalaska
47. Safe & Fear Free Environment (S.A.F.E.)
48. Sitka Natives for Sobriety (Alaska Native Brotherhood Camp #1)
49. Spirit Days, Incorporated
50. Sitka Alliance for Health
51. Shishmaref Sobriety Club
52. Spring Creek Correctional Center (Native Culture Club)
53. St. Paul Island High School Student Council
54. Tanana Chiefs Conference, Incorporated
55. Wildwood Correctional Center (Native Culture Club)
56. World Eskimo-Indian Olympics
57. Yukon-Kuskokwim Correctional Center (Native Culture Club)
58. Yukon-Kuskokwim Health Corporation

## THE IDITAPLEDGE

### (I-did-a-pledge) FOR SOBRIETY

Taking into account the "special note" in the previous paragraph, the "Iditapledge" is not only AFN/SM's largest annual fund-raiser, but it is a three point plan that:

1. Creates a meaningful opportunity for supporters to make a charitable contribution;
2. Mobilizes individuals, families and communities (AFN/SM Charter Groups-Honor Societies) to take joint ownership in a common solution to a problem;
3. Publicly identifies (measures), acknowledge and champion that percentage of our local and state population who lead, believe and support sobriety.

### HOW IT WORKS

In lieu of the number of miles the signatures for sobriety are carried on the Iditarod trail (1,049), individuals and businesses can show their support by making monetary pledges calculated on the total mileage (e.g., 1cent per mile equals \$10.49; \$1per mile equals \$1,049.00, etc.). Hence the name, Iditapledge. Those interested in showing their support need only fill-in the pledge box below and send it in to AFN/SM office on or before March 31, 1996.

Contributions are tax deductible. The AFN/SM is a campaign component under the Alaska Federation of Natives Foundation, a 501(c)3 non-profit organization, Federal ID #94-3123119. Please make and mail all contributions to:

AFN Sobriety Movement -or- AFN/SM  
Attn: Col. Milton R. Cross, Treasurer  
1577 C Street, Suite 201  
Anchorage, Alaska 99501

YES! Please accept my/our tax deductible contribution in support and recognition of the thousands of men, women and children whose signatures are being carried on the Iditarod trail.

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Cents or Dollars: \_\_\_\_\_ x 1,049 miles = \_\_\_\_\_

## ACCOMPLISHMENTS SINCE INCEPTION

- Achieved first fiscal year of self-sufficiency. 3/31/95 to 2/1/96 (raised \$70,000)
- Traveled to over 80 communities in Alaska and Lower '48, gave well over 150 presentations at prevention seminars, conferences, community coalition meetings, and treatment staff retreats;
- Collected a yearly average of 5,000 sobriety pledge signatures to be carried 1,049 miles to Nome, AK, in the sled of a drug-free musher
- Hosted two successful "sobriety dances during AFN Conventions '94 & '95 (raised +\$10,500)
- Submitted written public testimony in support of the Alaska Natives Commission Report at joint congressional hearings in Washington, DC.
- Traveled and spoke to over 1/3 of the Native population (+/- 1,000) on the merits of sobriety in all twelve of the state's prisons
- Helped to establish the month of March '95 & '96 as SOBRIETY AWARENESS MONTH (a.k.a. SAM)

## PROUD BUSINESS CONTRIBUTORS TO THE AFN/SM's 1995/6 CAMPAIGN

Polar Bear (\$5,000 plus)	Exxon of Alaska
Cook Inlet Region, Inc.	Southcentral Foundation
Indian Health Service	
Raven (\$1,000 plus)	AK Village Electric Co-Op
Alognak Native Corp.	Anch. Comm. Partnership
AK State AFL/CIO (In-kind)	Bristol Bay Native Corp.
Arctic Slope Regional Corp.	Hickal Investment Co.
Downlowm Deli & Cafe	NANA Regional Corp.
Koniag, Inc.	SKW Eskimos, Inc.
National Bank of Alaska	
Yukon-Kuskokwim Health Corporation	

Sea Lion (\$500 plus)	Bering Straits Native Corp.
AK Native Alcohol Recovery Ctr	First National Bank of Anch.
Cook Inlet Tribal Council	Livingston Stone, Inc.
Kawerak, Inc.	Norton Sound Health Corp.
Mellakalla Indian Community	
UIC Foundation, Inc.	

Caribou (\$250 plus)	Sealaska Corp.
Mr. & Mrs. Condon	

Sea Otter (\$100 plus)	AK Council on Prev. & Staff
AK Fed. of Natives Staff	AK Village Initiatives (In-kind)
Alaska Sales and Service	Gold's Gym (In-kind)
Donald Dapceovich	Law Offices of Aileen Smith
J.C. Panny (In-kind)	Tundra Times (In-kind)
NSHC Recovery Center	
Wilson Justin	

Brochure compliments of Cook Inlet Tribal Council, Inc.

# ALASKA FEDERATION OF NATIVES

## SOBRIETY\* MOVEMENT



For more information contact:

AFN SOBRIETY MOVEMENT  
Attn: Greg Nothstine, Coord.  
1577 C Street, Suite 201  
Anchorage, Alaska 99501  
907-274-3611, Fax 907-276-7989

\*Sobriety — A Positive, Healthy and Productive Way of Life.  
Free From the Devastating Effects of Alcohol and Drugs



#### AFN/SM MISSION STATEMENT:

The mission of AFN/SM is to encourage and support the growing sobriety movement in Alaska. It is based upon cherished and practiced spiritual values & traditional wisdoms of Alaska's Native people: supporting the collective efforts and activities of individuals, families and communities (public/private agencies), who exemplify, promote and benefit from the pursuit and practice of sobriety: a positive, healthy and productive way of life, free from the devastating effects of alcohol and drugs

#### SOBRIETY

*(Concept Definition)*

A positive, healthy and productive way of life, free from the devastating effects of alcohol and drugs.

#### SOBRIETY MOVEMENT

*(Concept Definition)*

The collective effort on the part of individuals, families, and communities, and every public and private agency, effected by, concerned with, and working toward the prevention of alcohol and drug abuse; who by example encourage and support those who live a life of sobriety.

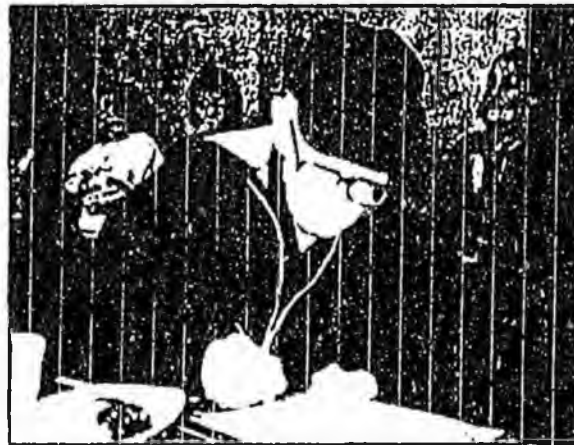
#### MERITS OF SOBRIETY

*(The ABC's)*

- A) Improves the quality of life and health of individuals, families and communities;
- B) Reduces the incidence of alcohol and drug related crimes.
- C) Reduces the burden on government in exhausting its resources on the pervasive symptoms and problems caused by alcohol and drug abuse

#### AFNSM GOALS:

1. To encourage and support alcohol-free and drug-free Native families;
2. To encourage the practice of traditional Native values and activities;
3. To cooperate and support existing groups working to promote sobriety among Alaska Natives;
4. To encourage the formation of sobriety groups in every Alaska Native community;
5. To encourage and support sober Alaska Native leaders and role models;
6. To become non-dependent upon local, state and federal grant subsidies.



Edger Noltnor, the last surviving Iditarod musher of the original Iditarod, is shown signing the sobriety pledge in Nulato.

*Tundra Times Photo by Greg Nolthstine*

#### THE SOBRIETY PLEDGE

As an Alaska Native or Concerned Individual, I do hereby claim the AFN Sobriety Movement's goals as my own (...). If we, Alaska Natives and Concerned Individuals, are to survive as healthy distinct nations, it will be because I took a stand against the elements which weaken and destroy our languages, our values and our spirits. If our spirits are to remain strong and sober, it has to begin somewhere. **LET IT BEGIN WITH ME!**

#### CHARTER GROUPS & HONOR SOCIETIES

Fifty-nine organizations or groups have passed resolutions in support of the AFN/SM. In whole, or in part, they have adopted or acknowledged the intent of AFN/SM's:

- Mission and Goals
- Concept Definitions & Merits
- Collect Sobriety Pledge Signatures\*
- Host at least one sobriety festival in respective community, district or region

\*Special Note: Collected signatures are put on microfilm, given to a drug-free dog sled musher, who, in ceremonial fashion carries the microfilm to Nome in the annual Iditarod Sled Dog Race. This is done in commemoration to the origin and history of the Iditarod, when vital serum was relayed to Nome by Alaska Native dog teams; which cured the diphtheria epidemic of the late 1920's. Symbolically, the signatures represent the serum of commitment needed to cure the pervasive and devastating effects of alcohol and drugs.



Ramey Brooks, 26 year old Athabaskan from Fairbanks, is the 1996 drug free musher carrying the signatures to Nome.

*Ermalee Hickel*

February 21, 1996

The Honorable Con Bunde, and  
The Honorable Cynthia Toohey  
Co-Chairs of House Committee on Health  
and Social Services  
State Capitol  
Juneau, AK 99801-1182

Dear Con and Cynthia,

I'm writing to offer my strong support for House Bill 523.

Too many Alaskans have fallen victim to alcoholism and alcohol abuse. HB-523 sends a positive message that those who lead a life of sobriety are examples and role models for us all, and we will help those in need of attaining sobriety.

We cannot ignore the problem alcohol abuse has created within the Alaska family. We must support and promote Alaskans to live sober and healthy lives. HB-523 is a step in the right direction.

Sincerely,



Ermalee Hickel

c: Mr. Greg L. Nothstine ✓

# Alaska State Legislature

**During Interim:**

716 West 4th Avenue Suite 510  
Anchorage, Alaska 99501-2133  
(907) 258-8185  
Fax (907) 258-0226

**During Session:**

State Capitol  
Juneau, AK 99801-1182  
(907) 465-4993  
Fax (907) 465-3872

## Senator Drue Pearce District F

Jan. 19, 1995

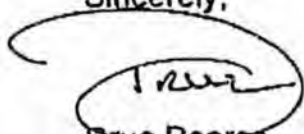
Mr. Greg Nothstine  
AFNSM Coordinator  
1577 C St., Suite 100  
Anchorage, Alaska 99501

Dear Greg:

Attached is a copy of a letter I sent to First Lady Hillary Rodham Clinton asking her to write a personal letter supporting the important efforts of the Alaska Federation of Natives *Sobriety Movement*.

I commend you for the important work you are doing to help Alaska Natives regain pride in their heritage and reclaim their lives from the devastation caused by alcohol and drugs.

Sincerely,

  
Drue Pearce  
Senate President

*Keep up the good work!*

# HOLY FAMILY CATHEDRAL

ARCHDIOCESE OF ANCHORAGE

811 West Sixth Avenue • Anchorage, Alaska 99501-2093 • (907) 276-3455 • FAX (907) 258-9785

February 20, 1996

Mr. Greg Nothstine  
AFN/SM  
1577 C Street, Suite 201  
Anchorage, AK 99501

Dear Greg,

Thank you for your letter of January 25, 1996 concerning the AFN's Sobriety Movement..

If you are able to send me more copies of the brochure you sent me, I would like to make them available in the parish church's book rack and do whatever I can to encourage your success in general and in your IDITAPLEDGE for Sobriety. This is something that will be a blessing for the whole community as lives are put back together and people allowed to live in true freedom.

Keep up the good work!

Yours truly,



Fr. LaSalle Hallssey, O.P.  
Pastor



DOMINICANS SERVING THE ARCHDIOCESE OF ANCHORAGE

THE WHITE HOUSE  
WASHINGTON

February 28, 1995

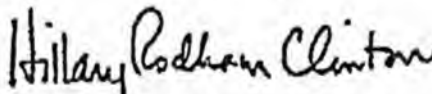
Dear Friends:

I am pleased to have this opportunity to send greetings to each of you participating in the Iditapledge of the Alaska Federation of Natives Sobriety Movement.

The miles covered in the Iditarod remind us of the steps we must take to assure a positive, healthy and productive way of life for the families and communities of our nation. As you link together healthy individuals, healthy families, and healthy communities you strengthen the fiber of our nation as a whole. I commend your hard work and dedication to this worthy cause.

Please accept my best wishes for a successful future.

Sincerely yours,



Hillary Rodham Clinton

MARK D. MATFIELD, OREGON, CHAIRMAN

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 ARLEN SPECTER, PENNSYLVANIA  
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 JAMES H. ENGLISH, MINORITY STAFF DIRECTOR

## United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-6025

January 24, 1995

Greg L. "Tungwenuk" Nothstine  
 Coordinator  
 Alaska Federation of Natives  
 Sobriety Movement  
 1577 "C" Street, Suite 100  
 Anchorage, Alaska 99501


Dear Tungwenuk:

Thank you for letting me know about the addition to the Sobriety Movement's request to Mrs. Clinton.

In an effort to address the concerns you have raised, I have contacted the White House and requested that they address this matter. Once I receive their response, you can be sure that I will share it with you.

With best wishes,

Cordially,



TED STEVENS

FRANK H. MURKOWSKI  
ALASKA

## COMMITTEES:

VETERANS' AFFAIRS (RANKING)  
ENERGY AND NATURAL RESOURCES  
FOREIGN RELATIONS  
INDIAN AFFAIRS

# United States Senate

WASHINGTON, DC 20510-0202  
(202) 224-8665

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ANCHORAGE, AK 99513-7670  
(907) 271-3735

101 12TH AVENUE, BOX 7  
FAIRBANKS, AK 99701-8278  
(907) 456-0233

P.O. BOX 21647  
JUNEAU, AK 99802-1647  
(907) 586-7400

130 TRADING BAY ROAD, SUITE 350  
KENAI, AK 99811-7716  
(907) 263-5808

109 MAIN STREET  
KETCHIKAN, AK 99901-8480  
(907) 226-8880

January 19, 1995

Mr. Greg L. Nothstine  
Sobriety Movement Coordinator  
Alaska Federation of Natives  
1577 C Street, Suite 100  
Anchorage, Alaska 99501

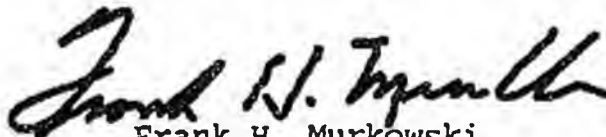
Dear Tungwenuk:

Thank you for your letter regarding the Alaska Federation of Native's Sobriety Movement.

I find it very pleasing to know that you have taken it upon yourselves to help those suffering from alcohol addiction. This pernicious condition is a severe detriment to the betterment of a people and a nation. I wish you great success in your effort and am only too happy to write to the First Lady on your behalf.

Again, thank you for your letter on this very important issue, and I hope that you will write to me in the future and let me know of the Movement's progress.

Sincerely,



Frank H. Murkowski  
United States Senator

**TONY KNOWLES**  
GOVERNOR



P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 485-3500  
Fax (907) 485-3532

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

February 13, 1995

Mr. Greg Nothstine, Coordinator  
Alaska Federation of Natives Sobriety Movement  
1557 C Street, Suite 100  
Anchorage, AK 99501

Dear Mr. Nothstine:

Thank you for your letter regarding the Alaska Federation of Natives Sobriety Movement. I am very aware of the excellent work you have accomplished for the people of Alaska. I would like to extend my personal thanks for all your hard work. I also appreciate your clarification of the meaning of sobriety versus prevention.

It is encouraging to hear you are willing to continue working with the state to reduce the recidivism rate among our incarcerated native population. We welcome your efforts.

My office is working on the proclamation for Sobriety Awareness Month. They will contact you soon. Thank you again for your tremendous work to help promote sobriety for all Alaskans.

Sincerely,

A handwritten signature in cursive script that reads "Tony Knowles".

Tony Knowles  
Governor

cc: Department of Corrections  
Department of Health and Social Services  
Department of Public Safety

50-50 chance of being served by a customers. The sex-charged atmosphere is one notch down from a hiring practices are a necessity. However, employees do not qualify for a b

FORUM / LETTERS

**\*Sobriety events lack coverage**

The Daily News has done an excellent job of portraying the problem of alcohol abuse among Natives in rural Alaska. While coverage of Native issues in general is improving, the Daily News still needs to improve in helping with solutions to the alcohol problem by giving Native sobriety events more press coverage.

The Native sobriety dinners and dances that were held during the Alaska Federation of Natives Convention in October were not well publicized by the Daily News. Then, on Nov. 12, the state Division of Alcohol and Drug Abuse began its annual statewide symposium with a healing day.

We had heard this healing day would include Native dances and other ceremonies. However, we could not find anything about the healing day in Friday's 8 section or Saturday's paper. We had to make several calls to friends and alcohol treatment centers before we finally found the location and time of the event.

The annual Alcohol and Drug Abuse Symposium is a very important event for those Alaska Natives and others involved in the sobriety movement. Each year, hundreds of Alaska Natives travel into Anchorage to attend it. They stay at Anchorage hotels, eat at Anchorage restaurants and shop at Anchorage businesses. They also have many productive discussions about what can be done about alcohol and drug abuse; but to get their message to more people, they need more support from the media.

We hope the Daily News can give these and other Native sobriety events more publicity in the future.

- Cynthia Wentworth, Anchorage  
Charles F. Hunt, Bethel

**Hard to understand Mstrom**

So the mayor can't figure out why people aren't supporting the idea of a sports center in South Anchorage (Metro, Nov. 26).

There is a lack of school rooms so we need additional space. School programs are being cut because of funding. There is a lack of jail space so we are turning criminals loose on the streets. We propose to add additional policemen to herd the criminals through the revolving door. Several roads and streets in the municipi-

**SOME MICHIGAN DOCTORS ENDORSE ASSISTED CALLED 'PHYSICIANS FOR MERCY'**



**The moose aren't the problem**

There are not too many moose in the Anchorage Bowl, but too many people. If Con Bunde and others really want to do something about it, they should work on population control.

- David McCargo

**City moose hunt wrong answer**

The editorial "Anchorage moose hunt has become necessary" (Nov. 12) poses the question of what should be done about life-threatening encounters with moose.

A hunt will not put an end to people/moose encounters in Anchorage. Regardless of how many moose are killed by a hunt, we will continue to encounter these animals while engaging in recreational activities. Traffic accidents involving moose will still occur, and during the winter moose will continue migrating into Anchorage, seeking relief from harsh win-

Ala: areas and r age b Reside should were reside Mo: an in mate fessio Game

Pre: Ou sittir peop requ our has l

# Opinion

## Spirit of the Blanket Toss

### Pulling together, we can soar to new heights

By Greg Nothstine

The North Slope Borough's (NSB) Department of Health & Education is to be congratulated for sponsoring a recent eight day, eight village presentation entitled, The Spirit of the Blanket Toss!

The presentation was a showcase of the cultural wisdom's embodied in the blanket toss, and an opportunity for me to collect hundreds of signatures for sobriety that will be carried on the Iditarod trail next year in March of 1996.

Presently, the state of Alaska is the "blanket toss" capital of the world. No other state, or country for that matter, can say that it has held more blanket toss events in most of its communities, or have been asked by more state or countries to demonstrate this jubiliant affair. Credit the "blanket tosses" rich metaphoric value for being a micro-management tool, emphasizing the step-by-step processes, for common goal setting; a useful model for creating a safe and healthy community.

Again, a simple and jubiliant event, the blanket toss teaches us some very simple lessons on the natural laws of physics; which, in turn, can be theoretically and comparably applied to human behavior.

To have a blanket toss it takes a group of people (25-50), to agree to a cooperative pulling process, utilizing a sea mammal skin blanket (8-15 ft. in diameter) with laced rope handles around its edges, for the objective of

tossing one person into the air. The immediate physics lesson is the following: If any, one side, or quadrant of people, pulling on the skin blanket, are not pulling hard enough, the law of physics dictates that the person being tossed will be thrown in the direction of the weak side. Consequently, this causes an emergency reaction by all the people pulling (i.e., pullers), to gravitate in the direction of catching the person thrown off course.

Another physics lesson the blanket toss teaches us is that, the person tossed will only go as high as the cooperative effort of the "pullers". When all the puller's efforts are well synchronized, its common to see a person get tossed straight up, and not uncommon for them to go up to some thirty, or forty feet.

Characteristic to the above lessons learned from the blanket toss, the event embodies the universal values indicative of healthy human behavior, e.g., respect, cooperation, unity, commitment and trust. All of which, are group process requirements for having a healthy social

environment, or for administering a common goal, e.g., whether it be a safer community, a school's mission, work, a marketing plan, or a budget philosophy, etc.



Who would have ever thought, the blanket toss, would be such a demonstrative and versatile concept, analogous and applicable to almost any given situation.

But it is, in this case, it was a useful model in promoting the merits of sobriety to the eight communities of the North Slope Borough.

The comparable lessons of the blanket toss teaches us that in order to have a healthy community, free from the devastating effects of alcohol and drugs, it takes the commitment and solidarity of a respective community's role models (i.e., parents, relatives, teachers, journeyman, professionals, civic leaders, etc.) to set an auspicious example for the next generation, that life can be enjoyed without the consumption of alcohol or drugs.

Conversely, if members of a commu-

nity glamorize, or even minimize, the abuse of alcohol and drugs, the question is: What side of the blanket would others believe they are pulling on?

If that is the case, it eloquently explains why we have so many people and agencies trying to intervene and catch those people who have fallen victim to the symptoms of alcohol and drug abuse.

It is, also, a comparative indicator that we may not be cooperating as well as we thought, in promoting a common goal or concept, e.g., like sobriety; a positive, healthy and productive way of life, free from the devastating effects of alcohol and drugs.

This is not to say, that sobriety is the catch-all solution to the pervasive social ills related to alcohol and drug abuse. However, there is no telling how far we can go, if we can at least agree and publicly acknowledge, that sobriety has always been the objective of our collective efforts. Again, congratulations to North Slope Borough's Department of Health and Education. The Native elders are right! The answers have always been in our culture-in The Spirit of the Blanket Toss-pulling together, we can soar to new heights.

("Tanvavut" Greg L. Nothstine is the AFNISM Coordinator.)

Correction: In the Aug. 23 issue, page 10, Donnan's name was misspelled in a letter to the editor. I also regretfully, this misspelling was repeated in another letter to the editor published, page 11. The National regards any misstatements as his Dissonance.



North Slope  
**Sentinel**  
 P.O. Box 55757, 427 East 5th Avenue, North Pole, Alaska 99703  
 (907) 488-0669 - FAX (907) 488-1313

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VOLUME XCV NO. 44 NOVEMBER 16, 1995



**KATIE BOURDON GETS A HUG**—Katie Bourdon receives a hug from a friend during the recognition and award portion of the Alaska Native Children of Alcoholics Convention last week in Nome. Bourdon was one of the organizers of the conference and was awarded a new pair of slippers for her efforts. (See story below) photo by Rob Stapleton

## ANCOA addresses trauma of alcohol abuse

By Nkuk M. Braem

The 1995 Alaska Native Children of Alcoholics Conference came to a close last Thursday in Nome with those assembled reading the Alaska Federation of Natives Sobriety Pledge.

Event organizers estimated that over 200 people from places as far-flung as Barrow and Juneau attended the three day event, which was last held in Nome in 1995. The event was sponsored by the Northern

Sound Health Corporation,

Northern Lights Recovery Center.

The theme of this year's conference was "A Healing Journey: Rebuilding and Renewing Our Relationships." Both the substance of the speeches and the panel discussions addressed the damage wrought by alcohol abuse within the Alaska Native community and the potential for a better future. Personal responsibility and community

involvement were common themes.

Nome resident Mary Miller talked about how, like many people of her generation, she was born into a time when alcoholism had become widespread in many families and communities.

"There is unpredictability and fear in a family setting where there is alcohol abuse," Miller said.

"There were no support groups

Continued on page 4

## Opinion

# Concept of sobriety not something new

By Greg L. Nothstine

The media coverage July 30 to Aug. 4 on the sobriety movement in Alaska was wonderful! Continued coverage like this is just what the public needs to get a thorough understanding of the subject — a solution which millions of people throughout the United States have in common — because our public institutions are in a bureaucratic rut still trying to diagnose the problem.

The state of Alaska spends millions in research dollars trying to solve the problem and symptoms of substance abuse. Yet, the institutions in place, which the state funds, fail miserably to acknowledge that a concept or solution, and its merits thereof, already exists with 60 years of history — sobriety.

Sobriety is nothing new. Again, it's a way of life millions of people in the United States have had in common for over 60 years. What is new, however, is how sobriety is now being interpreted and increasingly referred to as a lifestyle worthy of pursuit and practice; the merits of which (concluded by the Alaska

Federation of Natives Sobriety Movement Council): a) improve the quality of life and health of individuals, families and communities; b) reduce the incidence of alcohol- and drug-related crimes; c) reduce the burden on government to exhaust its resources in having to pay for the symptoms and problems caused by alcohol and drug abuse.

In June 1991, the Alaska Federation of Natives created its AFN sobriety movement program. Part of its mission has been to generate greater awareness and appreciation for sobriety. Since its inception, the program has annually collected thousands of sobriety pledge signatures from Natives and non-Natives alike. Every year these signatures are carried in the Iditarod Sled Dog Race, most notably by Mike Williams. Cumulatively, over 30,000 signatures have been collected.

Presently, 57 organizations and groups in the state (even one in the Lower 48 — the National Family Partnership) have passed

resolutions in support of the sobriety movement's mission and goals. Support like this can only be indicative of a shift in the philosophy of prevention.

We live in a linear society where definitions of terms are the principle cornerstone to any concept or ideology's success. The success of the sobriety movement is attributed to this principle where "sobriety" and the "sobriety movement" are concerned. Before the movement, these two terms were used in small circles, and in vague context to existing terminology in the mental health and health fields; nowhere were they found or mentioned in any glossary of any government needs assessment or research report.

So, the first thing the AFN sobriety movement council did was define sobriety as a positive, healthy and productive way of life, free from the devastating effects of alcohol and drugs. The council did the same for the sobriety movement; The collective effort on the part of individuals, families and communities, and

every public and private agency, affected by, concerned with and working toward the prevention of alcohol and drug abuse, who by example encourage and support (even employ) people to live a life of sobriety. Based on the latter definition, the AFN sobriety movement is but a mere component in a much greater ongoing process, the intent of which is primarily concerned with improving the quality of life.

Eight years ago, Alaska Natives were dubbed a "People in Peril." Now, they're the "Champions of Hope." Notwithstanding these characterizations and because of Alaska Natives, the state leads the nation in promoting sobriety among its citizens. On May 21, 1994, the Department of Corrections made national history by allowing all Native inmate culture clubs to simultaneously host sobriety potlaches.

In March of this year Gov. Tony Knowles and the 19th Alaska Legislature proclaimed the month of March as Sobriety Awareness Month; U.S. Sens. Ted

Stevens and Frank Murkowski and our nation's first lady, Mrs. Hillary Rodham Clinton, sent letters in support of the occasion. In tribute, these documents were carried in the 1995 Iditarod Sled Dog Race by Athabascan musher Remy Brooks.

All in all, more still can be done. Looking back, the concept of the sobriety movement was born out of the ashes of countless lives torn apart by the ravages of alcohol and drugs in the United States. It just happened that Alaska Natives, through their experience of aspiring to regain control of their lives and culture from generations of forced acculturation, germinated the sobriety movement into public awareness.

Hopefully, the media will continue this type of coverage on the subject, whatever the occasion. It can be just the momentum needed to give our public institutions the permission to take common stock in a solution which pays countless dividends in social benefits.

Greg L. Nothstine (Tungwenik) is coordinator of the Alaska Federation of Natives sobriety movement. He lives in Anchorage.

### Commentary

02/26/96 14:04 02/26/96 14:04

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 523

Revision Date: \_\_\_\_\_  
 Title: An act expressing the state's policy with respect  
to sobriety  
 Sponsor: House JUD  
 Requestor: House HES

Dept. Affected: Health and Social Services  
 BRU: Administrative Services  
 Component: Commissioner's Office  
 COMPONENT SERIAL NO. 317  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

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

This bill will have no fiscal impact on the Department of Health and Social Services

Prepared by: Janet Clarke, Director  
 Division: Administrative Services  
 Approved by Commissioner: Karen Perdue, Commissioner  
 Agency: Department of Health & Social Services

Phone: 465-3082  
 Date: 02/28/96  
 Date: 2/28/96

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TESTIMONY

GREG NOTHSTINE, COORDINATOR  
ALASKA FEDERATION OF NATIVES SOBRIETY MOVEMENT  
THURSDAY, FEBRUARY 29, 1996

19TH ALASKA STATE LEGISLATURE, SECOND SESSION  
HOUSE OF REPRESENTATIVES' COMMITTEE ON  
HEALTH, EDUCATION AND SOCIAL SERVICES (HESS)

Messrs. Chairman, Members of the Committees, Ladies and Gentlemen:

For the record my name is Greg Nothstine. As the coordinator for the Alaska Federation of Natives Sobriety Movement Council and on behalf of the Alaska Federation of Natives, I am testifying in support of House Bill No. 523, sponsored by the House Judiciary Committee, and entitled "An Act expressing the state's policy with respect to sobriety."

Messr. Chairmen, it is a foregone conclusion that alcohol and drug abuse presents an immediate danger to the lives, health and well-being of all Alaskans. The Alaska Federation of Natives supports the passage of House Bill No. 523 because it represents a positive paradigm shift in the state's policy for preventing alcohol and drug abuse in Alaska.

HB523 speaks to the legitimate recognition by the state of Alaska for a preferred lifestyle now being practiced by thousands of Alaskans and commonly referred to or known as sobriety. For the Alaska Federation of Natives and 58 other local, regional and statewide organizations, sobriety is understood as "a positive, healthy and productive way of life, free from the devastating effects of alcohol and drugs."

What is interesting is that the history of sobriety has been a concept and lifestyle, pursued and practiced by millions of Americans, longer than Alaska has even been state. Indisputably, our state court system has since dealt with many alcohol and drug abuse related cases. Consequently,

many criminals have been remanded to receive education and treatment services, which are regulated by statute.

Again, HB523 represents a positive paradigm shift in the state's policy for preventing alcohol and drug abuse. It favors and follows the conventional wisdom for reinforcing socially appropriate behaviors and choices that are conducive to:

- a) helping improve the quality of life and health for individuals, families and communities;
- b) helping reduce the incidence of alcohol and drug related crimes;
- c) helping reduce the burden on government in exhausting its resources and having to pay for the many social ills and problems caused by alcohol and drug abuse.

Messrs. Chairman, in the packet of information you have been provided, you will find a copy of Governor Tony Knowles' second Executive Proclamation declaring the month of March 1996 as Sobriety Awareness Month.

Last year, both, Governor Knowles and the 19th Alaska State Legislature, declared March 1995 as Sobriety Awareness Month. This set a precedent in not only, state history, but US history, because it made Alaska the first state in the nation to recognize sobriety as a lifestyle; the merits of which are deserving of support from every local, state and federal agency in the field of prevention.

Messr. Chairmen, on the eve of the second proclaimed Sobriety Awareness Month in our state's history, and on behalf of the AFN Board of Directors and the AFN Sobriety Movement Council, I urge you to support and recommend the passage of HB523.

Thank You for your time and attention.

# Alaska State Legislature

**Representative Brian S. Porter**



CHAIRMAN  
HOUSE JUDICIARY COMMITTEE

MEMBER  
HOUSE LABOR & COMMERCE COMMITTEE  
HOUSE STATE AFFAIRS COMMITTEE  
INTERNATIONAL TRADE & TOURISM  
COMMITTEE

MEMBER  
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**DISTRICT 20**

**HB 523**

**“An Act expressing the state’s policy with respect to sobriety.”**

## Sponsor Statement

Alcohol and drug abuse is the single most destructive health problem in Alaska. Alcohol abuse and dependence occurs among Alaskans in all racial and ethnic backgrounds and at all economic levels. The destructive consequences of alcohol and drug abuse are felt by the abusers, their spouses, children, friends, and employers. Ultimately, alcohol and drug abuse adversely affects all our lives either directly or indirectly.

HB 523 offers another alternative within the treatment of alcohol and drug abuse - sobriety. A positive, healthy and productive way of life, free from the devastating effects of alcohol and drugs. The sobriety language establishes an additional solution to the policy set forth by the Uniform Alcoholism and Intoxication Treatment Act. In fact, the Division of Alcoholism and Drug Abuse has placed the definition of “sobriety” in their strategic plan “meeting the Challenge” adopted by the Division and the Governor.

HB 523 focuses on a positive solution instead of the problem.

**HB**

**528**

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 528

Revision Date: _____	Dept. Affected: <u>Health and Social Services</u>
Title: <u>Relating to applications of certificate of need and licensing of nursing homes;</u>	BRU: <u>Medical Assistance</u>
Sponsor: <u>House Finance</u>	Component: <u>Medicaid Services</u>
Requestor: <u>House HES</u>	COMPONENT SERIAL NO. <u>2077</u>
	See also (SN#): _____

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

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES			
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CHANGES IN REVENUES ( )			
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: \$0.0

**POSITIONS:**

POSITIONS	FY97	FY98	FY99	FY00	FY01	FY02
FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill does not directly reduce the Medical Assistance budget. It is aimed at avoiding future costs which will be incurred by the Medical Assistance program if a 2 year CON moratorium is not implemented and the industry builds the planned projects. CON Applications, Letters of Intent (LIO), or Strategic Plans have been received from 5 facilities interested in adding a total of 115 new beds and 45 replacement beds in the next 3 years. Failure to pass this moratorium and the initiation of construction will result in additional incremental budget funding requests to meet the new costs associated with those beds totaling \$47,025,000 over the five fiscal years.

	FY97	FY98	FY99	FY00	FY01	FY02
Medical Assistance	0	(3,599)	(8,433)	(11,272)	(11,660)	(12,061)

Half of these costs are paid by federal funds and the other half by general fund match. Operating costs could continue to increase substantially after the first two years. Failure to avoid these new beds could have a deleterious effect on home and community-based services which enable elderly Alaskans to avoid entirely or postpone nursing home placement.

*5/4/96*

Prepared by: Randy Super *BS*  
 Division: Medical Assistance  
 Approved by Com: Karen Verdue, Commissioner  
 Agency: Department of Health & Social Services

Phone: 465-5833  
 Date: 03/04/96  
 Date: 3/5/96

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**ANALYSIS (cont.):**

In 1996, the average annual Medicaid amount for a nursing home bed is \$85,607. Typical annual costs for community-based care are much lower, ranging from \$16,045 to \$47,821 per client with an average of \$30,544. The growth and maintenance of community-based care will be threatened if unnecessary nursing home beds are built. Alaska seniors prefer to stay at home as long as possible and avoid nursing home placement.

A two year moratorium on long term care beds would allow time for the community-based service programs to develop more fully. It would also allow the Department of Health and Social Services and Division of Senior Services time to develop a plan for the orderly development and proper mix of community-based and long term care beds.

FY98 Medicaid costs were determined by projecting occupancy from estimated construction completion date and the Medicaid rate defined in regulations to be paid for new facility beds during the first two years of operation. The statewide swingbed rate, which is the average statewide nursing home rate of \$234.54 for FY96 is inflated forward by the 4 year average annual percentage change in that rate or 3.44% per year. This results in a rate of \$250.95 per day per new occupied bed in FY98. The following table displays the present status of new beds.

CON, Letter of Intent (LOI), Plan	Status	Number Beds	Estimated Construction Cost	Estimated Completion Date	FY98 Medicaid Cost	Annualized Medicaid Cost
Valley Hospital	Applied	60	10,488,500	Feb-97	2,890,944	5,495,805
Heritage Place	Pended	15	1,200,000	Apr-97	557,109	1,373,951
St. Ann's	LOI	45	13,720,000	Sep-98	0	0
South Peninsula	Plan	26	unknown	unknown	0	2,381,516
Sitka Community	LOI	14	>1,000,000	Mar-98	150,570	1,282,355
		160			3,598,623	10,533,626

The Annualized Medicaid Cost column displays what the Medicaid program would expend if every bed in that facility were occupied by a Medicaid recipient every day of the fiscal year.

7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 26, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/14/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 528

HOUSE BILL NO. 528

NURS.HOME MORATORIUM/CERTIFICATES OF NEED

'An Act relating to applications for certificates of need and licensing of nursing homes; amending the standard of review for certificates of need for health care facilities in the state; establishing a moratorium with respect to new applications by prohibiting the issuance of a certificate of need or a license for additional nursing home capacity in the state until July 1, 1998; and providing for an effective date.'

recommends it be replaced with the following committee substitute CS HB 528(HES) [ ] the same title [X] a new title

[ ] additional referral to \_\_\_\_\_ Committee [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date) [ ] fiscal note(s) [ ] fiscal note(s)

[X] zero fiscal note(s) H+SS [ ] zero fiscal note(s)

Table with columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows contain signatures and checkmarks.

CHAIR'S SIGNATURE

Car Bunde

9-LS1731\C

Lauterbach

3/13/96

**CS FOR HOUSE BILL NO. 528(HES)****IN THE LEGISLATURE OF THE STATE OF ALASKA****NINETEENTH LEGISLATURE - SECOND SESSION****BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE****Offered:****Referred:****Sponsor(s): HOUSE FINANCE COMMITTEE****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to applications for certificates of need and licensing of nursing  
2 homes; amending the standard of review for certificates of need for health care  
3 facilities in the state; establishing a moratorium with respect to new applications  
4 by prohibiting the issuance of a certificate of need or a license for additional  
5 nursing home capacity in the state until July 1, 1997; establishing a working  
6 group to study and issue a report about long-term care; and providing for an  
7 effective date."

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

9 \* **Section 1. FINDINGS.** The legislature finds that

10 (1) the current availability of nursing home beds exceeds the actual need for  
11 nursing home beds in the state;

12 (2) since 1989, based on national statistics, this state has had one of the lowest  
13 statewide occupancy rates for nursing homes in the nation, with a 77.5 percent occupancy rate

1 in 1992 being the second lowest in the nation; in 1995, statistics show that the statewide  
2 nursing home occupancy rate in the state was only 85 percent, which is still low by national  
3 standards;

4 (3) many nursing home residents would benefit from care that is less intensive  
5 and less costly than nursing home care through assisted living facilities or through home care  
6 agencies;

7 (4) this state has only recently begun to develop a system for providing long-  
8 term care for seniors needing care through home care or assisted living facilities so that the  
9 long-term care system is not in balance at the present time;

10 (5) with the unnecessary focus on nursing homes, the long-term care system  
11 will remain out of balance until community-based services can be developed;

12 (6) a moratorium on the addition of nursing home beds will encourage the  
13 development of home and community-based services, and direct the state's resources toward  
14 the services that can best meet the needs of the recipients; and

15 (7) a moratorium on the addition of nursing home beds will facilitate actions  
16 to provide a more balanced system of care, more appropriate placement of seniors, and  
17 additional client choice, and to avoid new long-term care costs.

18 \* Sec. 2. AS 18.07.041 is amended to read:

19 Sec. 18.07.041. STANDARD OF REVIEW FOR APPLICATIONS FOR  
20 CERTIFICATES OF NEED. The office shall grant a sponsor a certificate of need or  
21 modify a certificate of need if the department finds a lack of available [THE  
22 AVAILABILITY AND QUALITY OF EXISTING] health care resources in the state.  
23 The office shall consider the most cost-effective means of providing services and  
24 consider the state and federal financing available for those services before  
25 determining that a certificate will be granted [OR THE ACCESSIBILITY TO  
26 THOSE RESOURCES IS LESS THAN THE CURRENT OR PROJECTED  
27 REQUIREMENT FOR HEALTH SERVICES REQUIRED TO MAINTAIN THE  
28 GOOD HEALTH OF CITIZENS OF THIS STATE].

29 \* Sec. 3. MORATORIUM FOR CERTIFICATE OF NEED. (a) Notwithstanding  
30 AS 18.07, the Department of Health and Social Services may not accept an application for a  
31 certificate of need under AS 18.07, and the department may not grant a certificate of need

1 based on an application filed before the effective date of this Act, except as provided in (b)  
2 of this section, for

3 (1) construction of a health care facility that includes nursing home beds  
4 requiring licensure under AS 18.20.020; or

5 (2) conversion of a building or part of a building to include nursing home beds.

6 (b) The Department of Health and Social Services shall consider the findings in sec. 1  
7 of this Act when reviewing an application under AS 18.07 that was pending on the effective  
8 date of this Act for the addition of nursing home beds or the conversion of existing beds to  
9 nursing home beds. The department may grant a pending application only when granting it  
10 would be consistent with the policy underlying the findings in sec. 1 of this Act.

11 (c) Notwithstanding AS 18.20, the department may not issue a license for

12 (1) construction of a health care facility that includes new nursing home beds;

13 or

14 (2) additional new nursing home beds in a health care facility.

15 (d) In this section, "nursing home bed" means a bed not used for acute care in which  
16 nursing care and related medical services are provided over a period of 24 hours each day to  
17 individuals admitted because of illness, disease, or physical infirmity; the term "nursing home  
18 bed" does not include acute care beds converted to skilled nursing home beds used for  
19 transitional short-term care needs.

20 \* Sec. 4. WORKING GROUP; REPORT. (a) There is established a six-member working  
21 group to analyze issues regarding long-term care services in the state. The members of the  
22 group are

23 (1) two individuals appointed by the governor who are involved in providing  
24 long-term care services;

25 (2) two individuals appointed by the governor who are receiving long-term care  
26 services, at least one of whom must be at least 60 years of age;

27 (3) the commissioner of administration, or the commissioner's designee; and

28 (4) the commissioner of health and social services, or the commissioner's  
29 designee.

30 (b) The working group established under this section may select a presiding officer  
31 from among its members.

1 (c) After gathering information through methods considered appropriate by the group,  
2 the working group established under this section shall prepare a report that includes the  
3 following:

4 (1) a description of the current status and costs of the state's system for long-  
5 term care services;

6 (2) the projected number of state residents who will be needing long-term care  
7 services through the year 2000, the year 2005, the year 2010, and the year 2015;

8 (3) the projected costs to the state, based on the projection of needs under (2)  
9 of this subsection, if no changes are made to the state's present system of long-term care  
10 services;

11 (4) an estimated number of state residents who are currently receiving care in  
12 nursing facilities that could more appropriately be receiving home- and community-based care  
13 outside of nursing facilities;

14 (5) a description of the alternative methods available to provide nursing care  
15 for state residents and the relative cost to the state for these methods; and

16 (6) recommendations for principles that should be used to guide the  
17 development of the state's long-term care system, including principles that should guide the  
18 certificate-of-need process under AS 18.07.

19 (d) The working group shall deliver its report to the governor by the first day of the  
20 First Regular Session of the Twentieth Alaska State Legislature and notify the legislature that  
21 the report is available.

22 \* Sec. 5. Section 4 of this Act is repealed on the first day of the First Regular Session of  
23 the Twentieth Alaska State Legislature.

24 \* Sec. 6. Sections 1 and 3 of this Act are repealed July 1, 1997.

25 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).