

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9727 SENATE RULES

**HB**

**407**

# *Alaska State Legislature*

*Interim:*

145 Main St. Lp., 223  
Kenai, Alaska 99611  
907/283-7095  
907/283-3075 fx  
907/262-7574 hm

*Session:*

State Capitol  
Juneau, AK 99801  
907/465-2693  
fx 907/465-3835  
800/463-2693

## *Representative Gary Davis*

### **SPONSOR STATEMENT**

#### **House Bill 407**

"An Act relating to repayment of teacher scholarship loans"

The Teacher Scholarship Loan Program provides incentive to Alaska high school graduates to pursue teaching careers in rural Alaska elementary and secondary schools. Participants in the program are eligible to have their loan payments forgiven--either partially or in their entirety--based on the number of years they teach at a rural elementary or secondary school.

Sometimes, however, individuals are prevented from fulfilling the requirements to obtain payment forgiveness because of circumstances beyond their control. House Bill 407 addresses this type of situation. It provides that an individual who, after participating in the loan program, is diagnosed with a medical condition for which treatment is available only in an urban area, may still qualify for loan payment forgiveness so long as that individual is teaching in an elementary or secondary school.

Provisions already exist for payment deferments and extensions because of hardship and total loan forgiveness because of total disability. Unfortunately, there are times when individuals who are able to continue working are not able to work in a rural area because of required medical treatment. They would like to fulfill the requirements by working in rural areas but, through no fault of their own, cannot. This legislation remedies this situation without damaging the integrity of the program.

HB407/SS/2/18/98

*Representing House District 8  
Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna*

Representative\_Gary\_Davis@legis.state.ak.us

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## *Representative Gary Davis*

### **SECTIONAL ANALYSIS**

#### **House Bill 407**

"An Act relating to repayment of teacher scholarship loans"

Section 1: Adds a new subsection (f) to **AS 14.43.640 Conditions of and limitations on loans** providing that an individual who, after participating in the loan program, is diagnosed with a medical condition for which treatment is available only in an urban area, may still qualify for loan payment forgiveness so long as that individual is teaching in an elementary or secondary school in the urban area.

HB407/SA/2/18/98

*Representing House District 8*

*Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna*

Representative\_Gary\_Davis@legis.state.ak.us

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. HB 407

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected Education  
 Title "An act relating to repayment of teacher scholarship loans." BRU Alaska Commission on Postsecondary Education  
 Component Student Loan Operations  
 Sponsor Rep. Davis  
 Requester HHESS Component Serial No. 213

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</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>
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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 (Specify Type)						
<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:

**POSITIONS**

Full-time						
Part-time						
Temporary						

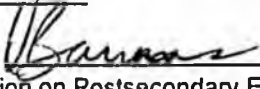
**ANALYSIS:** (Attach a separate page if necessary)

This legislation provides Teacher Scholarship Loan (TSL) borrowers forgiveness benefits if he/she meets all other eligibility requirements but is unable to teach in a rural area of Alaska due to a medical condition. The condition must have been diagnosed after the loan was received and only be treatable at facilities in urban Alaska.

Continued

Prepared by Mike Maher, Director of Student Loan Operations  
 Division Student Loan Operations

Phone 465-6743  
 Date March 17, 1998

Approved by Executive Director:  /Diane Barrans  
 Agency: Alaska Commission on Postsecondary Education

Date: March 17, 1998

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# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. HB 407

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

Because of the provision for up to 100% forgiveness on TSLs, the Alaska Student Loan Corporation must consider these loans, for financial reporting purposes, in a specific loss allowance. Therefore, assuming that the impacted borrowers would have otherwise met the forgiveness criteria, this change is not expected to have a fiscal impact.

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## Alaska Administrative Code

(downloaded from folioviews 2/19/98)

### **20 AAC 15.200 PURPOSE OF TEACHER SCHOLARSHIP LOAN PROGRAM.**

The teacher scholarship loan program provides low-cost educational loans to Alaska high school graduates enrolled in bachelor's degree programs in elementary or secondary teacher education or in teacher certification programs.

History - Eff. 8/16/86, Register 99

Authority - AS 14.43.600; AS 14.43.610; AS 14.43.630

### **20 AAC 15.205 ADMINISTRATION.**

(a) The commission will allocate loan awards in January of each year to local school boards, giving preference to rural school districts.

(b) School boards shall notify the commission by April 1 of each year, on forms provided by the commission, as to which students have been selected to be recipients of loans.

(c) By May 1 of each year, the commission will send an appropriate number of teacher scholarship loan application forms to the school boards for distribution to selected students.

(d) In May of each year, the commission will send application forms to recipients of previous teacher scholarship loans who are expected to continue in an eligible program of study.

(e) Repealed 3/22/97.

History - Eff. 8/16/86, Register 99; am 3/22/97, Register 141

Authority - AS 14.43.630

### **20 AAC 15.210 FILING OF APPLICATION.**

(a) The application deadline for teacher scholarship loan applications is the July 1 preceding the school year for which the loan is requested.

(b) Repealed 3/22/97.

(c) Repealed 3/22/97.

History - Eff. 8/16/86, Register 99; am 3/24/94, Register 130; am 3/22/97, Register 141

Authority - AS 14.43.630

### **20 AAC 15.215 APPLICANT ELIGIBILITY.**

In addition to the eligibility requirements set out in AS 14.43.650, an applicant must be enrolled, or must intend to enroll, in a four-year bachelor's degree program in elementary or secondary teacher education or in a teacher certification program.

History - Eff. 8/16/86, Register 99

Authority - AS 14.43.630; AS 14.43.650

### **20 AAC 15.220 PRIORITY RANKING OF APPLICANTS.**

If available money is not sufficient to fund all eligible applicants, loans will be awarded in accordance with the following priority:

(1) applicants who received a teacher scholarship loan the preceding year;

(2) one new applicant, ranked by high school grade-point average, from each school district;

(3) remaining new applicants ranked by highest number of years enrolled in a teacher education program, with students who are in a teacher certification program ranked first.

History - Eff. 8/16/86, Register 99

Authority - AS 14.43.630; AS 14.43.650

## **20 AAC 15.225 COMPUTATION OF AUTHORIZED LOAN AWARDS**

Repealed

History - Eff. 8/26/86, Register 99; am 11/26/94, Register 132; repealed 3/22/97, Register 141

## **20 AAC 15.230 CONDITIONS OF LOANS.**

A loan may be used to attend only an institution that meets the requirements of

- (1) 20 AAC 15.922; and
- (2) AS 14.20.020 and 4 AAC 12.010 - 4 AAC 12.900 for teacher certification degree programs.

History - Eff. 8/16/86, Register 99; am 5/8/88, Register 106; am 11/28/92, Register 124; am 11/26/94, Register 132; am 11/27/94, Register 132; am 7/1/96, Register 138; am 12/4/96, Register 140; am 3/22/97, Register 141

Authority - AS 14.43.600; AS 14.43.610; AS 14.43.630; AS 14.43.640; AS 14.43.650

## **20 AAC 15.235 DISBURSEMENT OF LOAN AWARDS**

Repealed.

History - Eff. 8/16/86, Register 99; am 11/26/94, Register 132; repealed 3/22/97, Register 141

## **20 AAC 15.240 REPAYMENT OF LOANS.**

(a) In cases of hardship, and based on such factors as the seriousness of the hardship, its anticipated duration, and the expectation of increased earnings in later years, the commission will either alter the repayment schedule by extending the period of repayment, subject to the deferment provisions of AS 14.43.120(k), to a maximum term of 15 years, or weight the regular payments to ease payment in the first years and require larger payments in later years, or both.

(b) A recipient whose repayment schedule has been modified as a result of hardship shall certify annually to the commission the continued existence of the conditions under which the hardship determination was made. When the conditions no longer exist, the recipient shall notify the commission, and renegotiate the payment schedule, based on the loan's outstanding balance and accrued interest, over a term acceptable to the commission.

History - Eff. 8/16/86, Register 99; am 11/26/94, Register 132; am 11/27/94, Register 132; am 12/4/96, Register 140; am 3/22/97, Register 141

Authority - AS 14.43.630; AS 14.43.640

## **20 AAC 15.245 DEFERMENT OF PAYMENTS.**

Repealed.

History - Eff. 8/16/86, Register 99; am 11/27/94, Register 132; repealed 3/22/97, Register 141

## **20 AAC 15.250 FORGIVENESS BENEFITS.**

(a) To qualify to have a portion of a loan be paid by the state as a forgiveness benefit under AS 14.43.640(b), a borrower must

- (1) provide a copy of the borrower's degree, diploma, or certificate of completion for the course of study for which the loan was awarded;
- (2) show proof of employment as a teacher in a rural elementary or secondary school, as defined in AS 14.43.700;
- (3) provide certification on a form provided by the commission that the borrower has satisfied the requirements of AS 14.43.640(b) and this section;
- (4) be current in repayment in compliance with AS 14.43.120 and 20 AAC 15 on the loan for which a forgiveness benefit is claimed; and
- (5) not have defaulted on the loan.

(b) Forgiveness benefits will be prorated for a borrower who shows proof of employment as a teacher for the equivalent of at least one-half of the school day for a full

school year, or full-time for one-half of the school year, but less than full-time for the full school year.

(c) Forgiveness benefits are credited against the unpaid principal balance. Receipt of a forgiveness benefit does not alter the amount of the monthly payments due under the borrower's repayment schedule for the loan, but instead reduces the remaining number of monthly payments.

(d) A borrower who is not eligible for forgiveness benefits under AS 14.43.640(b) is eligible for benefits under former AS 14.43.120(j) if the loan was awarded before July 1, 1987 and the borrower qualifies under former AS 14.43.120(j) and 20 AAC 15.060.

History - Eff. 8/16/86, Register 99; am 6/26/87, Register 102; am 5/8/88, Register 106; am 9/15/88, Register 107; am 5/18/90, Register 114; am 11/28/92, Register 124; am 6/23/95, Register 134; am 3/22/97, Register 141  
Authority - Former AS 14.43.120(j); AS 14.43.630; AS 14.43.640

## **20 AAC 15.255 DEFAULT**

Repealed.

History - Eff. 8/16/86, Register 99; repealed 12/4/96, Register 140

## **20 AAC 15.260 APPEALS TO THE EXECUTIVE DIRECTOR**

Repealed.

History - Eff. 8/16/86, Register 99; am 11/28/92, Register 124; repealed 6/23/95, Register 134

## **20 AAC 15.265 APPEALS TO THE COMMISSION**

Repealed.

History - Eff. 8/16/86, Register 99; am 11/28/92, Register 124; repealed 6/23/95, Register 134

## **20 AAC 15.270 COMPLAINT FILE**

Repealed.

History - Eff. 8/16/86, Register 99; repealed 6/23/95, Register 134

## **20 AAC 15.275 LOAN AUDIT AND INSTITUTIONAL SANCTIONS**

Repealed.

History - Eff. 8/16/86, Register 99; am 6/26/87, Register 102; repealed 3/22/97, Register 141

## **20 AAC 15.295 DEFINITIONS.**

(a) In AS 14.43.600 - 14.43.700 and 20 AAC 15.200 - 20 AAC 15.295, "total loan" means the total amount of all teacher scholarship loans received by a borrower.

(b) For the purposes of 20 AAC 15.200 - 20 AAC 15.295,

(1) "employment as a teacher" means to enter into and complete the terms of a contract to serve as a certificated elementary or secondary school teacher;

(2) "hardship" means being unable to meet the obligation to repay a teacher scholarship loan over the term or in the amount determined by loan personnel.

History - Eff. 8/16/86, Register 99; am 11/26/94, Register 132; am 12/4/96, Register 140; am 3/22/97, Register 141  
Authority - AS 14.43.630

**HB**

**451**

*adopted by  
S. RLS 5-9-98*

**SENATE CS FOR CS FOR HOUSE BILL NO. 451(RLS)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RULES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES GREEN, Davies, Berkowitz, Porter**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to assistive technology devices and mobility aids for physically  
2 disabled persons."

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

4 \* **Section 1.** AS 45.45 is amended by adding new sections to read:

5 **Article 8A. Warranties For Assistive Technology Devices and Mobility Aids.**

6 **Sec. 45.45.600. Express warranty required.** A manufacturer who sells an  
7 assistive technology device or a mobility aid to a consumer, either directly or through  
8 a dealer, shall furnish the consumer with an express warranty stating that the assistive  
9 technology device or mobility aid is free from any nonconformity. The duration of the  
10 express warranty shall be not less than one year after first delivery of the assistive  
11 technology device or mobility aid to a consumer. If a manufacturer fails to furnish an  
12 express warranty as required by this section, the assistive technology device or  
13 mobility aid shall be covered by the express warranty as if the manufacturer had  
14 furnished an express warranty to the consumer as required by this section.

1           **Sec. 45.45.610. Repairs of nonconformities.** If a new assistive technology  
2 device or mobility aid does not conform to an applicable express warranty and the  
3 consumer reports the nonconformity to the manufacturer, the lessor, or any of the  
4 manufacturer's authorized dealers and makes the assistive technology device or  
5 mobility aid available for repair before one year after first delivery of the assistive  
6 technology device or mobility aid to a consumer, the nonconformity shall be repaired  
7 and the manufacturer shall pay collateral costs incurred by the consumer.

8           **Sec. 45.45.620. Returns of nonrepairable goods; refunds.** If, after a  
9 reasonable attempt to repair, the nonconformity reported under AS 45.45.610 is not  
10 repaired, the manufacturer shall

11           (1) at the direction of a consumer who has not leased the assistive  
12 technology device or the mobility aid from a dealer, do one of the following:

13                   (A) accept return of the assistive technology device or mobility  
14 aid and replace the assistive technology device or mobility aid with a  
15 comparable new assistive technology device or mobility aid and, within 30  
16 days, refund any collateral costs;

17                   (B) accept return of the assistive technology device or mobility  
18 aid and, within 30 days, refund to the consumer and to a holder of a perfected  
19 security interest in the consumer's assistive technology device or mobility aid,  
20 as their interest may appear, the full purchase price plus any finance charge,  
21 amount paid by the consumer at the point of sale, and collateral costs, less a  
22 reasonable allowance for use; a reasonable allowance for use may not exceed  
23 the amount obtained by multiplying the full purchase price of the assistive  
24 technology device or mobility aid by a fraction, the denominator of which is  
25 1,825 and the numerator of which is the number of days that the assistive  
26 technology device or mobility aid was used before the consumer first reported  
27 the nonconformity to the dealer;

28           (2) with respect to a consumer who has leased the assistive technology  
29 device or mobility aid from a dealer, accept return of the assistive technology device  
30 or mobility aid, refund to the lessor and to a holder of a perfected security interest in  
31 the assistive technology device or mobility aid, as their interest may appear, the current

1 value of the written lease, and refund to the consumer the amount that the consumer  
2 paid under the written lease plus any collateral costs, less a reasonable allowance for  
3 use; in this paragraph,

4 (A) the current value of the written lease equals the total  
5 amount for which that lease obligates the consumer during the period of the  
6 lease remaining after its early termination, plus the dealer's early termination  
7 costs and the value of the assistive technology device or mobility aid at the  
8 lease expiration date if the lease sets out that value, less the lessor's early  
9 termination savings;

10 (B) a reasonable allowance for use may not exceed the amount  
11 obtained by multiplying the total amount for which the written lease obligates  
12 the consumer by a fraction, the denominator of which is 1,825 and the  
13 numerator of which is the number of days that the consumer used the assistive  
14 technology device or mobility aid before first reporting the nonconformity to  
15 the manufacturer, lessor, or dealer.

16 **Sec. 45.45.630. Procedures for returns and refunds.** (a) To receive a  
17 comparable new assistive technology device or mobility aid or a refund under  
18 AS 45.45.620(1), a consumer shall offer to transfer possession of the assistive  
19 technology device or mobility aid having the nonconformity to its manufacturer. No  
20 later than 30 days after that offer, the manufacturer shall provide the consumer with  
21 the comparable new assistive technology device or mobility aid or with a refund.  
22 When the manufacturer provides the new assistive technology device or mobility aid  
23 or refund, the consumer shall return the assistive technology device or mobility aid  
24 having the nonconformity to the manufacturer, along with any endorsements necessary  
25 to transfer real possession to the manufacturer.

26 (b) To receive a refund under AS 45.45.620(2), a consumer shall offer to  
27 return the assistive technology device or mobility aid having the nonconformity to its  
28 manufacturer. No later than 30 days after that offer, the manufacturer shall provide  
29 the refund to the consumer. When the manufacturer provides the refund, the consumer  
30 shall return to the manufacturer the assistive technology device or mobility aid having  
31 the nonconformity.

1 (c) To receive a refund under AS 45.45.620(2), a lessor shall offer to transfer  
 2 possession of the assistive technology device or mobility aid having the nonconformity  
 3 to its manufacturer. No later than 30 days after that offer, the manufacturer shall  
 4 provide the refund to the lessor. When the manufacturer provides the refund, the  
 5 lessor shall provide to the manufacturer any endorsements necessary to transfer legal  
 6 possession to the manufacturer.

7 **Sec. 45.45.640. Lease unenforceable after refund.** A person may not enforce  
 8 the lease for an assistive technology device or a mobility aid against the consumer  
 9 after the consumer receives a refund under AS 45.45.600 - 45.45.690.

10 **Sec. 45.45.650. Limits on sale or lease of returned equipment.** An assistive  
 11 technology device or mobility aid returned by a consumer or a lessor in this state  
 12 under AS 45.45.600 - 45.45.690, or by a consumer or lessor in another state under a  
 13 similar law of that state, may not be sold or leased again in this state unless full  
 14 disclosure of the reasons for return is made to any prospective buyer or lessee.

15 **Sec. 45.45.660. Rights may not be waived.** A waiver by a consumer of rights  
 16 under AS 45.45.600 - 45.45.690 is void.

17 **Sec. 45.45.670. No limitation of other rights.** AS 45.45.600 - 45.45.690 do  
 18 not limit rights or remedies available to a consumer under any other law.

19 **Sec. 45.45.680. Action for damages authorized.** In addition to pursuing  
 20 another remedy, a consumer may bring an action to recover for damages caused by a  
 21 violation of AS 45.45.600 - 45.45.690. The court shall award a consumer who prevails  
 22 in an action under this section twice the amount of any pecuniary loss, together with  
 23 costs, disbursements, and reasonable attorney fees, and any equitable relief that the  
 24 court determines is appropriate.

25 **Sec. 45.45.690. Definitions.** In AS 45.45.600 - 45.45.690,

26 (1) "assistive technology device" means an item, piece of equipment,  
 27 or product system, whether acquired commercially off the shelf, modified, or  
 28 customized, that is used or designed to be used to increase, maintain, or improve a  
 29 functional capability of an individual with disabilities; an assistive technology device  
 30 system that, as a whole, is within the definition of "assistive technology device," is  
 31 itself an assistive technology device, and in such case the term also applies to each

1 component product of the assistive technology device system that is itself ordinarily  
2 an assistive technology device; to the extent that a device otherwise meets the  
3 requirements of this paragraph, "assistive technology device" includes

4 (A) wheelchairs and scooters of any kind, and other aids that  
5 enhance the mobility or positioning of an individual, such as motorization,  
6 motorized positioning features, and the switches and controls for motorized  
7 features;

8 (B) hearing aids, telephone communication devices for the deaf,  
9 and other assistive listening devices;

10 (C) computer equipment and reading devices with voice output,  
11 optical scanners, talking software, braille printers, and other aids and devices  
12 that provide access to text;

13 (D) computer equipment with voice output, artificial larynges,  
14 voice amplification devices, and other alternative and augmentative  
15 communication devices;

16 (E) voice recognition computer equipment, software and  
17 hardware accommodations, switches, and other forms of alternative access to  
18 computers;

19 (F) environmental control units; and

20 (G) simple mechanical aids that enhance the functional  
21 capabilities of an individual with disabilities;

22 (2) "assistive technology device system" means the final product  
23 resulting from a manufacturer customizing, adapting, reconfiguring, refitting,  
24 refurbishing, or composing into a system one or more component products, whether  
25 or not new, that may be assistive technology devices or standard products of the same  
26 or other manufacturer;

27 (3) "collateral costs" means the following expenses incurred by a  
28 consumer:

29 (A) medical expenses for the treatment of a physical injury  
30 caused by a nonconformity in an assistive technology device or mobility aid;

31 (B) the cost to rent a substitute assistive technology device or

1 mobility aid during the time repairs are attempted for an assistive technology  
2 device or mobility aid that has a nonconformity and during the time preceding  
3 receipt of a replacement when repairs have been unsuccessful;

4 (C) the cost of shipping an assistive technology device or  
5 mobility aid that has a nonconformity to a manufacturer, lessor, or authorized  
6 dealer for repair or replacement; and

7 (D) the documented costs of long-distance telephone calls and  
8 facsimile transmissions used to contact the manufacturer, lessor, or authorized  
9 dealer for the purpose of effecting a repair or replacement of an assistive  
10 technology device or mobility aid that has a nonconformity;

11 (4) "consumer" means

12 (A) the purchaser of an assistive technology device or mobility  
13 aid, if the assistive technology device or mobility aid was purchased from a  
14 dealer or manufacturer for purposes other than resale;

15 (B) a person to whom the assistive technology device or  
16 mobility aid is transferred for purposes other than resale, if the transfer occurs  
17 before the expiration of an express warranty applicable to the assistive  
18 technology device or mobility aid;

19 (C) a person who may enforce the warranty; or

20 (D) a person who leases an assistive technology device or a  
21 mobility aid from a lessor under a written lease;

22 (5) "dealer" means a person who is in the business of selling assistive  
23 technology devices or mobility aids without assembly or modification;

24 (6) "demonstrator" means an assistive technology device or a mobility  
25 aid used primarily for the purpose of demonstration to the public;

26 (7) "early termination cost" means any expense or obligation that a  
27 lessor incurs as a result of both the termination of a written lease before the  
28 termination date set out in that lease and the return of an assistive technology device  
29 or mobility aid to a manufacturer; "early termination cost" includes a penalty for  
30 prepayment under a finance arrangement;

31 (8) "early termination savings" means any expense or obligation that

1 a lessor avoids as a result of both the termination of a written lease before the  
2 termination date set out in that lease and the return of an assistive technology device  
3 or mobility aid to a manufacturer; "early termination savings" includes an interest  
4 charge that the lessor would have paid to finance the assistive technology device or  
5 mobility aid or, if the lessor does not finance the assistive technology device or  
6 mobility aid, the difference between the total amount for which the lease obligates the  
7 consumer during the period of the lease term remaining after the early termination and  
8 the present value of that amount at the date of the early termination;

9 (9) "lessor" means a person who leases an assistive technology device  
10 or mobility aid to a consumer, or who holds the lessor's rights, under a written lease;

11 (10) "manufacturer" means a person who is in the business of  
12 manufacturing, modifying, or assembling assistive technology devices or mobility aids  
13 and agents of that person, including an importer, a distributor, factory branch,  
14 distributor branch, and any warrantors of the manufacturer's assistive technology  
15 devices or mobility aids, but does not include a dealer;

16 (11) "mobility aid" means equipment or a device, including a  
17 demonstrator, designed to assist the mobility of a physically disabled person, that a  
18 consumer purchases or accepts transfer of in this state; in this paragraph, "device"  
19 includes

20 (A) a motorized or nonmotorized wheelchair;

21 (B) a scooter;

22 (C) an automotive crane;

23 (D) a van lift; and

24 (E) special hand controls for a motor vehicle;

25 (12) "nonconformity" means a condition or defect that substantially  
26 impairs the use, value, or safety of an assistive technology device or mobility aid or  
27 a component of the assistive technology device or mobility aid, but does not include  
28 a condition or defect that is the result of abuse, neglect, or unauthorized modification  
29 or alteration of the assistive technology device or mobility aid or a component of the  
30 assistive technology device or mobility aid by a consumer;

31 (13) "reasonable attempt to repair" means either of the following

1 occurring within the term of an express warranty applicable to a new assistive  
 2 technology device or mobility aid or within one year after first delivery of the assistive  
 3 technology device or mobility aid to a consumer, whichever is sooner:

4 (A) the same nonconformity with the warranty is subject to  
 5 repair by the manufacturer, lessor, or any of the manufacturer's authorized  
 6 dealers at least four times and the nonconformity continues;

7 (B) the assistive technology device or mobility aid is out of  
 8 service for an aggregate of at least 30 days because of warranty  
 9 nonconformities.

10 \* Sec. 2. AS 47.80 is amended by adding a new section to read:

11 **Article 5A. Teachers Who Teach the Use of Certain Aids or Devices**  
 12 **for the Blind and Visually Impaired.**

13 **Sec. 47.80.400. Qualifications for teaching the use of certain aids or**  
 14 **devices for the blind and visually impaired.** (a) A person who is employed to teach  
 15 the use of orientation and mobility aids or assistive technology devices to students who  
 16 are 16 years of age or older and who are blind or visually impaired may not receive  
 17 payment from the state or a political subdivision of the state unless the person meets  
 18 the training and experience requirements established by the department under this  
 19 section.

20 (b) The department shall, by regulation, establish minimum requirements for  
 21 training and experience of persons who teach the use of orientation and mobility aids  
 22 or assistive technology devices to students who are 16 years of age or older and who  
 23 are blind or visually impaired. The department shall consider the standards adopted  
 24 by national organizations that provide services to the blind and visually impaired when  
 25 setting requirements under this section.

26 \* Sec. 3. GRACE PERIOD FOR CURRENT TEACHERS. Notwithstanding the  
 27 requirements of AS 47.80.400, enacted by sec. 2 of this Act, a person employed on the  
 28 effective date of this Act to teach the use of orientation and mobility aids or assistive  
 29 technology devices to students who are 16 years of age or older and who are blind or visually  
 30 impaired may continue to be employed by that employer without meeting the requirements  
 31 of AS 47.80.400(b), enacted by sec. 2 of this Act, until one year after the effective date of this

1 Act.

2 \* **Sec. 4. EFFECT ON CONTRACTS.** Nothing in this Act modifies or terminates a  
3 contract in effect on the effective date of this Act.

4 \* **Sec. 5. APPLICABILITY.** Section 1 of this Act applies to sales and leases of assistive  
5 technology devices or mobility aids entered into on or after the effective date of this Act.



Official Business

# Alaska State Legislature

## Senate

State Capitol  
Juneau, AK. 99801-1182

### Rules Committee

#### MEMORANDVM

TO: Tim  
FROM: Ben  
DATE: 8 May 1998  
IN RE: proposed Rules CS for HB 451

I reviewed the proposed Rules CS for HB 451, "An act relating to assistive technology devices and mobility aids for physically disabled persons." The primary change from the Judiciary CS is the addition of language requiring Department of Health & Social Services (DH&SS) to adopt regulations that govern who may teach the use of orientation or mobility aids to the visually-impaired and blind. This language in Section 2 of the CS (p. 8, ll. 10-25), sets out that those who instruct blind or visually impaired persons over 16 years of age in the use of orientation or mobility aids may only be paid with State funds if they meet DH&SS standards.

The second part of the new section mandates that DH&SS adopt regs establishing minimum requirements for those who instruct blind or visually impaired persons over 16 years of age in the use of orientation or mobility aids.

Section 3 of the proposed Rules CS provides a one-year grace period for those who instruct blind or visually impaired persons over 16 years of age in the use of orientation or mobility aids, to allow them to meet the new standards DH&SS will promulgate by regulation. Section 4 expressly states that nothing in the bill modifies or terminates a contract currently in effect.

The sponsor is happy with the changes, as are the affected groups who were previously objecting to the bill.



## *National Federation of the Blind of Alaska*

May 8, 1998

Dear Senator Kelly:

I would like to begin by taking the opportunity to thank you for taking the views of the National Federation of the Blind of Alaska into account when considering H.B. 451. As you know, our primary concern was not with the bill itself, but rather with the amendment that suggested blind individuals be excluded in teaching orientation and mobility in Alaska.

I have spoken with Mel in Senator Taylor's office and Karisse in Representative Davies's office, who have been very helpful in addressing our concerns. They have assured me that the language, as it now reads in the bill, would allow for the consideration of standards that do not discriminate against blind orientation and mobility instructors. The bill, as I understand it, would also require that DVR develop standards that take into consideration the experiences and skills of blind individuals who are qualified to teach effective cane travel practices. We support standards that do not exclude blind people, and it is our understanding that the Division of Vocational Rehabilitation will come up with these standards.

Based on these assurances, the National Federation of the Blind of Alaska supports and encourages the passage of H.B. 451.

Thank you, once again, for considering our opinions in working on this bill. If I can be of further assistance, please do not hesitate to call me at 248-7770.

Sincerely,

Melody Lindsey, President  
National Federation of the Blind of Alaska

# Alaska State Legislature

WOMEN'S SESSIONS  
CAPITOL BUILDINGS  
1000 N. ALASKA STREET, 1402  
ANCHORAGE, ALASKA 99501  
PHONE: 465-4933  
FAX: 465-4933

MAILING ADDRESS:  
716 WEST 4TH AVENUE  
ANCHORAGE, ALASKA 99501  
PHONE: 261-6100  
FAX: 261-6114



CHAIRMAN, JUDICIARY COMMITTEE  
VICE CHAIRMAN, HEALTH, EDUCATION  
& SOCIAL SERVICES COMMITTEE  
MEMBER, GOVERNMENT COMMITTEE  
MEMBER, FINANCE COMMITTEE  
DEPT. OF COMMERCE & ECONOMIC  
DEVELOPMENT  
ALASKA GOVERNMENT

Representative Joe Green  
District 10

TO: Senator Tim Kelly, Chairman *TK*  
Senate Rules Committee

FR: Representative Joe Green *JG*

RE: HB 451 - Mobility Aids For Physically Disabled Persons

DATE: May 6, 1998

I request that the Rules Committee reconsider HB 451 - An Act relating to assistive devices for disabled persons, for the purpose of adopting a specific amendment.

Senator Taylor has prepared, and I have reviewed and approved, language that directs the Division of Vocational Rehabilitation to promulgate regulations to establish minimum qualifications and standards for persons who train sight impaired Alaskans to use mobility aids.

This amendment could provide a direct benefit to a large percentage of the more than 11-thousand sight impaired Alaskans. I have sought the input of the groups that advocate for, and provide services to, disabled Alaskans. These people initially requested that I introduce HB 451, and they support the amendment as written in version "R".

Thank you for your consideration.

Larry Meader  
3401 Skipper Street  
Anchorage, AK 99504  
(333-3955)

May 6, 1998

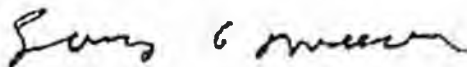
Sen. Tim Kelly  
State Legislature  
State Capital  
Juneau, AK 99508-1182

Dear Rep. Barnes

I am a past student at the Alaska Center for Blind Adults. Last weekend, at the National Federation of the blind Convention, I heard of a Bill (HB451), which has an amendment that requires the certification of anyone who teaches orientation and mobility to the blind. I am a firm believer in certification and standards; however, the Association for Education and Rehabilitation is the certifying body, and this organization will not certify blind people to teach mobility. I disagree with this amendment because it is discriminatory against the blind. I was taught by a blind mobility instructor and received excellent results. Therefore, I urge you to vote "no" on this bill, for it will take away a blind person's freedom of choice to become a mobility instructor. It is also a violation of the Americans with Disabilities Act, for it denies qualified people the write to teach mobility on the basis of their blindness.

Thank you for taking the time to read this letter. If you have any questions, please contact me at the address or telephone number above.

Sincerely,



Larry Meader

# Alaska State Legislature

*Chairman,*  
Judiciary Committee

*Member,*  
Resources Committee  
Rules Committee  
Committee on Committees



State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-3873  
Fax: (907) 465-3922

50 Front Street, #203  
Ketchikan, Alaska 99901  
(907) 225-8088  
Fax: (907) 225-0713

***Senator Robin L. Taylor***  
*Senate Majority Leader*

HB451

## Proposed Committee Substitute

The amendment incorporated into the proposed Committee Substitute for HB 451 adds a provision requiring the Department of Health and Social Services to adopt regulations establishing standards for teachers who teach the use of orientation and mobility aids and assistive technology devices to persons 16 years of age or older. Individuals will not be able to take state grant or political subdivision monies for providing these services unless they meet the qualifications established by the department.

This amendment was requested by the Association of the Independent Blind. The language as drafted requires the department to consider the standards that have been adopted by national organizations who provide services to the blind and visually impaired. These organizations include service providers, advocacy organizations, professional organizations, and any other organizations that in any way provide services to the blind.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell



## *National Federation of the Blind of Alaska*

May 5, 1998

The Honorable Tim Kelly  
Fax #: 465-3756  
State Capitol  
Juneau, Alaska

Dear Senator Kelly:

I am writing this letter to express my concern about a bill that Duane French, Director of the Division of Vocational Rehabilitation, brought before our convention this weekend asking for our support. The bill is HB451, an Assistive Technologies bill. This piece of legislation also includes an amendment that *requires certification for trainers in assistive technologies and in orientation and mobility.*

We in the National Federation of the Blind of Alaska oppose this amendment strongly. The basis for our opposition is the fact that the certification requirement excludes blind persons from teaching orientation and mobility. The Association for the Education and Rehabilitation of the Blind and Visually Impaired (AER) states that it certifies blind orientation and mobility instructors; however, when one examines the requirements for certification, they involve the blind individual seeking certification to perform tasks using visual methods rather than alternative techniques used by blind instructors which prove to be more effective.

Blind individuals have been teaching orientation and mobility for years despite the discrimination they have encountered with AER. Nationally, this issue has sparked discussion and debate among those who hold to negative misconceptions about blindness and those who truly believe in the capabilities of blind people and promote them as role models for individuals who still need training.

As a matter of fact, the Commissioner of the Rehabilitation Services Administration, Dr. Fredric Schroeder, is a very competent blind individual. The agency he oversees administers all of the vocational rehabilitation programs in the country. Yet Dr. Schroeder was denied certification by AER to teach orientation and mobility solely on the basis of his blindness, even though he had completed all the academic requirements necessary to receive certification.

How could we in Alaska support a bill with an amendment that would blatantly discriminate against qualified blind orientation and mobility instructors?

The Hon. Senator Tim Kelly  
May 5, 1998  
Page 2

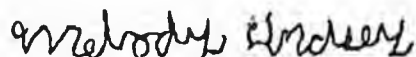
We in the National Federation of the Blind of Alaska would like to support HB451, but until the certification amendment is removed, we cannot and will not in good conscience promote legislation that goes against everything we believe about blind people. At our convention this weekend Duane French told us in his presentation that we need to "set aside some of our beliefs and to make a commitment to each other and to the disability rights movement here in Alaska to make this work..." Basically, Mr. French is asking us to set aside our beliefs in blind people and sell our souls for the gain of assistive technology. If this detrimental amendment were not a part of the bill, then we would whole-heartedly support it, but with the amendment, support of the bill would demand that we compromise our philosophy of blindness to an unacceptable degree.

In response to Mr. French on Saturday, one of our members summed up our position unequivocally by saying, "We are in favor of standards--anything that improves opportunities for blind people, but we want them to be meaningful. We won't trade a standard for discrimination against blind people." And the standards currently promoted by AER for certification of blind people does discriminate. Therefore, because the amendment to HB451 specifies that orientation and mobility instructors doing business with the state possess AER certification, we urge you to vote against it. Until this issue is resolved at a national level or even at the state level, we would suggest that this amendment be set aside.

Thank you for taking the time to read about our concerns with HB451. If you have any questions or if I can be of further assistance in this matter, please do not hesitate to call me at 248-7770.

The National Federation of the Blind of Alaska works to change misconceptions about blindness, and this amendment would be a step backward.

Sincerely,



Melody Lindsey, President  
National Federation of the Blind of Alaska

# Alaska State Legislature

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CHAIRMAN JUDICIARY COMMITTEE  
VICE CHAIRMAN HEALTH EDUCATION  
& SOCIAL SERVICES COMMITTEE  
MEMBER EDUCATION COMMITTEE  
CHIEF CLERK  
DEPT. OF COMMERCE & ECONOMIC  
DEVELOPMENT  
ALASKA COURT SYSTEM

Representative Joe Green  
District 10

## Sponsor Statement

### HB 451 - Warranties for Assistive Technology and Mobility Aids

HB 451 establishes an express warranty for technology designed to assist physically disabled persons. Under the terms of the bill, if a consumer reports a nonconformity to a manufacturer within a year of delivery, the manufacturer must repair or replace the equipment, or offer a refund of the purchase price.

Assistive technology and mobility aids for the physically disabled are not covered by "lemon laws" and consumer protection statutes in title 45. The automobile lemon law in chapter 45 makes no mention of wheel chairs. Similarly, the Unfair Trade Practices and Consumer Protection Act, found in chapter 50, makes no mention of assistive equipment. Yet, 11 states have passed such laws, and others are considering doing so.

Non-working assistive equipment can be not only inconvenient, but dangerous. Many of us have experienced the frustration of dealing with a non-responsive salesperson far from Alaska; imagine doing so without the benefit of the equipment you depend upon to communicate, or get around. When people lose their mobility, or ability to communicate, they may not be aware of, or may not be able to remove themselves from, dangerous situations. Assistive technology allows the physically disabled to operate in a manner most of us take for granted.

I ask for your support in enacting a law that affords basic protection to a group of consumers who already face obstacles unimagined by most of us.

MOVEMENT BY THE BLIND FOR SERVICES & INDEPENDENCE  
12 E. Henrietta Street, Baltimore, Maryland 21230  
(410) 962-0470 Fax (410) 539-3259

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Making a Difference in the Lives  
of Blind Women and Men

May 4, 1998

To: Senator Robin Taylor

From: Ralph Sanders, Former President, National Federation of the Blind

Re: Amendment establishing standards for teachers of certain aids or devices for the Blind and Visually Impaired

I encourage you to move forward on the proposed Amendment to House Bill 451. It is important to have individuals, who have recognized knowledge and experience, providing training to Blind and Visually Handicapped individuals.

I served as President of the national Federation of the Blind (NFB) for one term, and as a member of the Board of Directors from 1973 until 1985.

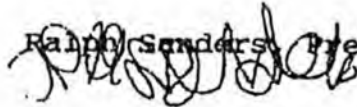
The organization did oppose the Standards of the National Accreditation Council, (NAC), but in recent years has been promoting a set of NFB standards. In other words, the NFB is not, has not been, opposed to standards. Unfortunately, they choose the standards they want based on political terms, not professional terms. That is consistent with the membership and goals since it is a political organization, and not a professional organization.

Your proposed Amendment would begin the process of providing the Blind and Visually Handicapped of Alaska a certain comfort level in knowing that the training they receive will be worth the time, energy and emotional commitment required.

It is very important to understand that a blind individual, particularly someone who has lost their sight as an adult, faces a tremendous emotional challenge in mental preparing to start down the road toward personal independence. They are scared of injury, becoming lost, and numerous other unknown, and unnamed dangers that lurk beyond a very small geographic area, such as their bedroom or living room. Confidence in your instructors competence is the first, and most important, step in feeling strong enough to take the first "big step".

If you have any other question which I might help you answer,  
please do not hesitate to call on me.

Sincerely,

  
Ralph Sanders, President

**HB**

**459**

0-LS1504R  
Lauterbach  
5/11/98

**SENATE CS FOR CS FOR HOUSE BILL NO. 459(RLS)**

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

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RULES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing new eligibility for medical assistance for certain disabled  
2 persons and giving their eligibility for services the highest priority among optional  
3 services and groups under the medical assistance program; amending the definition  
4 of 'personal care services in a recipient's home' as used in the medical  
5 assistance program; moving midwife services from being the first to being the  
6 seventh service eliminated under the medical assistance program when there is  
7 insufficient funding; adjusting the priority of optional services and optional  
8 eligible groups under the medical assistance program in order to reflect the new  
9 priorities given to the newly-eligible disabled persons and to midwife services but  
10 without otherwise changing the relative order of the other optional services and  
11 optional groups; relating to catastrophic illness assistance; establishing a medical  
12 assistance program for chronic and acute medical conditions; and providing for

1 an effective date."

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

3 \* Section 1. AS 47.07.020(b) is amended by adding a new paragraph to read:

4 (12) disabled persons, as described in 42 U.S.C.  
5 1396a(a)(10)(A)(ii)(XIII), who are in families whose income, as determined under  
6 applicable federal regulations or guidelines, is less than 250 percent of the official  
7 poverty line applicable to a family of that size according to the federal Office of  
8 Management and Budget, and who, but for earnings in excess of the limit established  
9 under 42 U.S.C. 1396d(q)(2)(B), would be considered to be individuals with respect  
10 to whom a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c;  
11 a person eligible for assistance under this paragraph who is not eligible under another  
12 provision of this section shall pay a premium or other cost-sharing charges according  
13 to a sliding fee scale that is based on income as established by the department in  
14 regulations.

15 \* Sec. 2. AS 47.07.035 is amended to read:

16 Sec. 47.07.035. **Priority of medical assistance.** If the department finds that  
17 the cost of medical assistance for all persons eligible under this chapter will exceed  
18 the amount allocated in the state budget for that assistance for the fiscal year, the  
19 department shall eliminate coverage for optional medical services and optionally  
20 eligible groups of individuals in the following order:

- 21 (1) [MIDWIFE SERVICES;  
22 (2)] clinical social workers' services;  
23 (2) [(3)] psychologists' services;  
24 (3) [(4)] chiropractic services;  
25 (4) [(5)] advanced nurse practitioner services;  
26 (5) [(6)] adult dental services;  
27 (6) [(7)] emergency hospital services;  
28 (7) midwife services;  
29 (8) treatment of speech, hearing, and language disorders;  
30 (9) optometrists' services and eyeglasses;

- 1 (10) occupational therapy;
- 2 (11) mammography screening;
- 3 (12) prosthetic devices;
- 4 (13) medical supplies and equipment;
- 5 (14) targeted case management services;
- 6 (15) rehabilitative services for substance abusers and emotionally
- 7 disturbed or chronically mentally ill adults;
- 8 (16) clinic services;
- 9 (17) physical therapy;
- 10 (18) personal care services in a recipient's home;
- 11 (19) prescribed drugs;
- 12 (20) hospice care;
- 13 (21) long-term care noninstitutional services;
- 14 (22) inpatient psychiatric facility services;
- 15 (23) intermediate care facility services for the mentally retarded;
- 16 (24) intermediate care facility services;
- 17 (25) individuals described in AS 47.07.020(b)(11);
- 18 (26) individuals under age 21 who are not eligible for benefits under
- 19 the federal program designated as the successor to the aid to families with dependent
- 20 children program because they are not deprived of one or more of their natural or
- 21 adoptive parents;
- 22 (27) skilled nursing facility services for persons under age 21;
- 23 (28) aged, blind, and disabled individuals who, because they do not
- 24 meet the income requirements, do not receive supplemental security income under Title
- 25 XVI of the Social Security Act, but who are eligible, or would be eligible if they were
- 26 not in a skilled nursing facility or intermediate care facility, to receive an optional state
- 27 supplementary payment;
- 28 (29) individuals in a hospital, skilled nursing facility, or intermediate
- 29 care facility whose income while in the facility does not exceed 300 percent of the
- 30 supplemental security income benefit rate under Title XVI of the Social Security Act,
- 31 but who, because of income, are not eligible for the optional state supplementary

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payment;

(30) individuals under age 21 under supervision of the department for whom maintenance is being paid in whole or in part from public money and who are in foster homes or private child-care institutions;

(31) individuals under age 21 who the department has determined cannot be placed for adoption without medical assistance because of a special need for medical or rehabilitative care and who the department has determined are hard-to-place children eligible for subsidy under AS 25.23.190 - 25.23.220;

(32) individuals who are eligible under AS 47.07.020(b)(12).

\* Sec. 3. AS 47.07.900(15) is amended to read:

(15) "personal care services in a recipient's home" means services authorized under a service plan [PRESCRIBED BY A PHYSICIAN] in accordance with applicable federal and state law [THE RECIPIENT'S PLAN OF TREATMENT AND PROVIDED BY AN INDIVIDUAL WHO IS

(A) QUALIFIED TO PROVIDE THE SERVICES;

(B) SUPERVISED BY A REGISTERED NURSE; AND

(C) NOT A MEMBER OF THE RECIPIENT'S FAMILY];

\* Sec. 4. AS 47.08.010 is amended to read:

**Sec. 47.08.010. Reimbursement of providers.** (a) Subject to (b) of this section, under AS 47.08.010 - 47.08.140 [UNDER THE PROVISIONS OF THIS CHAPTER], the Department of Health and Social Services may [SHALL] reimburse providers of medical care for unpaid costs incurred in the treatment of a person suffering an illness or accident that results in financial catastrophe to the person or the person's family.

\* Sec. 5. AS 47.08.010 is repealed and reenacted to read:

**Sec. 47.08.010. Reimbursement of providers.** Under the provisions of this chapter, the Department of Health and Social Services shall reimburse providers of medical care for unpaid costs incurred in the treatment of a person suffering an illness or accident that results in financial catastrophe to the person or the person's family.

\* Sec. 6. AS 47.08.010 is amended by adding a new subsection to read:

(b) At the beginning of each fiscal year, the commissioner of health and social

1 services shall determine whether sufficient appropriations have been made for the  
2 anticipated costs of services to needy persons under AS 47.08.150 and the anticipated  
3 costs of reimbursements under (a) of this section. The Department of Health and  
4 Social Services may not accept applications for reimbursement under (a) of this section  
5 for a fiscal year if, at the beginning of the fiscal year the department determines that

6 (1) there are insufficient funds appropriated for the anticipated costs of  
7 services for needy persons under AS 47.08.150; or

8 (2) after subtracting anticipated costs under AS 47.08.150, there are  
9 insufficient funds appropriated for anticipated reimbursements under (a) of this section.

10 \* Sec. 7. AS 47.08 is amended by adding a new section to read:

11 **Article 2. Medical Assistance for Chronic**  
12 **or Acute Medical Conditions.**

13 **Sec. 47.08.150. Assistance for chronic or acute medical conditions. (a)**

14 Under the provisions of this section, the Department of Health and Social Services  
15 may pay providers of medical care for services described in (c) of this section that are  
16 provided to needy persons suffering from a chronic or acute medical condition who  
17 may apply for assistance under (b) of this section.

18 (b) A needy person suffering from a chronic or an acute medical condition  
19 who is eligible for general relief assistance under AS 47.25.120 and is not eligible for  
20 the medical assistance program under AS 47.07 may apply for assistance under this  
21 section. The department shall make a determination of eligibility based on a general  
22 relief assistance application. The requirements of AS 47.08.020 - 47.08.140 do not  
23 apply to assistance sought under this section, except that, notwithstanding (c) of this  
24 section, neither reimbursement nor assistance may be paid by the department for  
25 services that are listed in AS 47.08.050 as those services are defined in AS 47.08.140.

26 (c) The services eligible for payment under this section for a needy person  
27 with a chronic or acute medical condition are the following:

28 (1) prescription drugs and medical supplies prescribed to treat a person  
29 who has

30 (A) a terminal illness;

31 (B) cancer and requires chemotherapy; or

1 (C) a chronic condition that would normally, in its untreated  
2 course, result in the death or disability of the recipient, but that is amenable to  
3 outpatient medication; the chronic conditions for which the cost of prescription  
4 drugs may be paid include the following diagnoses:

5 (i) diabetes and diabetes insipidus;

6 (ii) seizure disorders;

7 (iii) chronic mental illness;

8 (iv) hypertension;

9 (2) physician services

10 (A) related to care under (3) of this subsection;

11 (B) provided in a hospital emergency room the same day on  
12 which the recipient is admitted for care under (3) of this subsection;

13 (C) provided to a recipient residing in a nursing home; or

14 (D) provided in either an outpatient or an inpatient setting to a  
15 recipient with a diagnosis described in (1) of this subsection;

16 (3) inpatient hospital services that cannot be performed on an outpatient  
17 basis and that are certified as necessary by a professional review organization  
18 consulted by the Department of Health and Social Services but not including inpatient  
19 psychiatric hospital services;

20 (4) outpatient laboratory and x-ray services;

21 (5) medical transportation related to care under (3) of this subsection  
22 or nursing facility care;

23 (6) outpatient surgical services;

24 (7) nursing facility care.

25 (d) The payment rate for facilities under this section shall be the same as that  
26 established by regulation for medical services under AS 47.25.195, and payment rates  
27 under this section for other providers may not exceed those established under  
28 AS 47.07.

29 (e) The Department of Health and Social Services may limit the amount,  
30 duration, and scope of services covered under this section by regulation. If the  
31 Department of Health and Social Services finds that the cost of assistance for all

1 persons eligible under this section will exceed the amount allocated for that assistance  
2 during the fiscal year, the Department of Health and Social Services may limit  
3 coverage for certain medical services by regulation in order to provide the most critical  
4 care within the available appropriations.

5 (f) The Department of Health and Social Services may adopt regulations to  
6 implement this section.

7 \* **Sec. 8.** AS 47.08.010(b) and 47.08.150 are repealed.

8 \* **Sec. 9. TRANSITIONAL PROVISION.** Notwithstanding AS 47.07.020(b)(12), added  
9 by sec. 1 of this Act, an individual described in that provision is eligible for medical  
10 assistance under AS 47.07 without the payment of a premium or other cost-sharing charges  
11 for the first two months of the individual's receipt of assistance under AS 47.07.020(b)(12).  
12 Beginning in the third month of the individual's receipt of assistance under  
13 AS 47.07.020(b)(12), the individual shall pay one-twelfth of an annual premium that is  
14 determined by applying a percentage to the annual net income of the individual's family. The  
15 applicable percentage, Y, shall be calculated according to the formula of  $Y = (X-100)/15 -$   
16  $0.75(N-1)$ , where X is the annual net income of the individual's family expressed as a  
17 percentage of the official federal poverty line for a family of the size involved and N is the  
18 number of persons in the individual's family; however, an individual is not required to pay  
19 a premium under this section if the individual's family has a net income that is less than the  
20 applicable federal poverty line for a family of the size involved or if the value of Y calculated  
21 under this section is a negative number. The premium required under this section is payable  
22 until the Department of Health and Social Services, by regulation, establishes another system  
23 for setting and collecting a premium or other cost-sharing charges for persons who receive  
24 medical assistance because they are eligible under AS 47.07.020(b)(12), as enacted by sec. 1  
25 of this Act. For purposes of this section, the annual net income of the individual's family  
26 shall be determined under applicable federal regulations and guidelines.

27 \* **Sec. 10. REGULATIONS.** The Department of Health and Social Services shall adopt  
28 regulations establishing the sliding fee scale for premiums or other cost-sharing charges  
29 described in sec. 1 of this Act by July 1, 1999.

30 \* **Sec. 11. REVISOR INSTRUCTION.** In the following statute sections, the revisor of  
31 statutes shall substitute the spanned reference "AS 47.08.010 - 47.08.140" for references to

1 "this chapter": AS 47.08.040, 47.08.050, 47.08.120, 47.08.130, and 47.08.140.

2 \* **Sec. 12.** Sections 4, 6, 7, and 11 of this Act take effect July 1, 1998.

3 \* **Sec. 13.** Sections 5 and 8 of this Act take effect on the day after the later of (1) the date  
4 on which time expires for appeal of a judgment declaring any part of AS 47.08.150, enacted  
5 by sec. 7 of this Act, unconstitutional, or (2) if an appeal is taken, the date of entry of the  
6 final order on appeal that any part of AS 47.08.150, enacted by sec. 7 of this Act, is  
7 unconstitutional. The attorney general shall notify the revisor of statutes of a judgment  
8 described in this section.

# LEGAL SERVICES

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

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


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

May 10, 1998

**SUBJECT:** SCS CSHB 459(RLS), draft version "P" (Medical care)

**TO:** Senator Tim Kelly  
Attn: Tim Benintendi

**FROM:** Terri Lauterbach  
Legislative Counsel 

Enclosed is the SCS requested. The cell phone number for Ms. Bomegen did not work. The message I received was "mobile unit not on or outside the listening area."

I have tried to put organizational sense into the draft you sent over. If I have inadvertently changed the substance, please let me know how to correct the draft.

The definition of "chronic or acute medical conditions" is troublesome. It seems to define the conditions by references to the services needed. Is subsection (f) intended to be a list of eligible services? If so, more rewriting is needed. If the services listed in subsection (f) are only intended to be available for the conditions described in (f)(1)(A) - (C), then more rewriting is needed. I offer this draft for discussion purposes; it probably needs additional clarification.

TML:jdr  
98-294.jdr

Enclosure

**SENATE CS FOR CS FOR HOUSE BILL NO. 459(RLS)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RULES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing new eligibility for medical assistance for certain disabled  
2 persons and giving their eligibility for services the highest priority among optional  
3 services and groups under the medical assistance program; amending the definition  
4 of 'personal care services in a recipient's home' as used in the medical  
5 assistance program; moving midwife services from being the first to being the  
6 7th service eliminated under the medical assistance program when there is  
7 insufficient funding; adjusting the priority of optional services and optional  
8 eligible groups under the medical assistance program in order to reflect the new  
9 priorities given to the newly-eligible disabled persons and to midwife services but  
10 without otherwise changing the relative order of the other optional services and  
11 optional groups; relating to catastrophic illness assistance; establishing a medical  
12 assistance program for chronic and acute medical conditions; and providing for

1 an effective date."

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

3 \* Section 1. AS 47.07.020(b) is amended by adding a new paragraph to read:

4 (12) disabled persons, as described in 42 U.S.C.  
5 1396a(a)(10)(A)(ii)(XIII), who are in families whose income, as determined under  
6 applicable federal regulations or guidelines, is less than 250 percent of the official  
7 poverty line applicable to a family of that size according to the federal Office of  
8 Management and Budget, and who, but for earnings in excess of the limit established  
9 under 42 U.S.C. 1396d(q)(2)(B), would be considered to be individuals with respect  
10 to whom a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c;  
11 a person eligible for assistance under this paragraph who is not eligible under another  
12 provision of this section shall pay a premium or other cost-sharing charges according  
13 to a sliding fee scale that is based on income as established by the department in  
14 regulations.

15 \* Sec. 2. AS 47.07.035 is amended to read:

16 Sec. 47.07.035. **Priority of medical assistance.** If the department finds that  
17 the cost of medical assistance for all persons eligible under this chapter will exceed  
18 the amount allocated in the state budget for that assistance for the fiscal year, the  
19 department shall eliminate coverage for optional medical services and optionally  
20 eligible groups of individuals in the following order:

- 21 (1) [MIDWIFE SERVICES;  
22 (2)] clinical social workers' services;  
23 (2) [(3)] psychologists' services;  
24 (3) [(4)] chiropractic services;  
25 (4) [(5)] advanced nurse practitioner services;  
26 (5) [(6)] adult dental services;  
27 (6) [(7)] emergency hospital services;  
28 (7) midwife services;  
29 (8) treatment of speech, hearing, and language disorders;  
30 (9) optometrists' services and eyeglasses;

- 1 (10) occupational therapy;
- 2 (11) mammography screening;
- 3 (12) prosthetic devices;
- 4 (13) medical supplies and equipment;
- 5 (14) targeted case management services;
- 6 (15) rehabilitative services for substance abusers and emotionally
- 7 disturbed or chronically mentally ill adults;
- 8 (16) clinic services;
- 9 (17) physical therapy;
- 10 (18) personal care services in a recipient's home;
- 11 (19) prescribed drugs;
- 12 (20) hospice care;
- 13 (21) long-term care noninstitutional services;
- 14 (22) inpatient psychiatric facility services;
- 15 (23) intermediate care facility services for the mentally retarded;
- 16 (24) intermediate care facility services;
- 17 (25) individuals described in AS 47.07.020(b)(11);
- 18 (26) individuals under age 21 who are not eligible for benefits under
- 19 the federal program designated as the successor to the aid to families with dependent
- 20 children program because they are not deprived of one or more of their natural or
- 21 adoptive parents;
- 22 (27) skilled nursing facility services for persons under age 21;
- 23 (28) aged, blind, and disabled individuals who, because they do not
- 24 meet the income requirements, do not receive supplemental security income under Title
- 25 XVI of the Social Security Act, but who are eligible, or would be eligible if they were
- 26 not in a skilled nursing facility or intermediate care facility, to receive an optional state
- 27 supplementary payment;
- 28 (29) individuals in a hospital, skilled nursing facility, or intermediate
- 29 care facility whose income while in the facility does not exceed 300 percent of the
- 30 supplemental security income benefit rate under Title XVI of the Social Security Act,
- 31 but who, because of income, are not eligible for the optional state supplementary

1 payment;

2 (30) individuals under age 21 under supervision of the department for  
3 whom maintenance is being paid in whole or in part from public money and who are  
4 in foster homes or private child-care institutions;

5 (31) individuals under age 21 who the department has determined  
6 cannot be placed for adoption without medical assistance because of a special need for  
7 medical or rehabilitative care and who the department has determined are hard-to-place  
8 children eligible for subsidy under AS 25.23.190 - 25.23.220;

9 **(32) individuals who are eligible under AS 47.07.020(b)(12).**

10 \* Sec. 3. AS 47.07.900(15) is amended to read:

11 (15) "personal care services in a recipient's home" means services  
12 **authorized under a service plan** [PRESCRIBED BY A PHYSICIAN] in accordance  
13 with **applicable federal and state law** [THE RECIPIENT'S PLAN OF TREATMENT  
14 AND PROVIDED BY AN INDIVIDUAL WHO IS

- 15 (A) QUALIFIED TO PROVIDE THE SERVICES;  
16 (B) SUPERVISED BY A REGISTERED NURSE; AND  
17 (C) NOT A MEMBER OF THE RECIPIENT'S FAMILY];

18 \* Sec. 4. AS 47.08.010 is amended to read:

19 **Sec. 47.08.010. Reimbursement of providers. (a) Subject to (b) of this**  
20 **section, under AS 47.08.010 - 47.08.140** [UNDER THE PROVISIONS OF THIS  
21 CHAPTER], the Department of Health and Social Services ~~shall~~ reimburse providers  
22 of medical care for unpaid costs incurred in the treatment of a person suffering an  
23 illness or accident that results in financial catastrophe to the person or the person's  
24 family.

25 \* Sec. 5. AS 47.08.010 is amended by adding a new subsection to read:

26 (b) At the beginning of each fiscal year, the commissioner of health and social  
27 services shall determine whether sufficient appropriations have been made for the  
28 anticipated costs of services to needy persons under AS 47.08.150 and the anticipated  
29 costs of reimbursements under (a) of this section. The Department of Health and  
30 Social Services may not accept applications for reimbursement under (a) of this section  
31 for a fiscal year if, at the beginning of the fiscal year the department determines that

1 (1) there are insufficient funds appropriated for the anticipated costs of  
2 services for needy persons under AS 47.08.150; or

3 (2) after subtracting anticipated costs under AS 47.08.150, there are  
4 insufficient funds appropriated for anticipated reimbursements under (a) of this section.

5 \* Sec. 6. AS 47.08 is amended by adding a new section to read:

6 **Article 2. Medical Assistance for Chronic**  
7 **or Acute Medical Conditions.**

8 **Sec. 47.08.150. Assistance for chronic or acute medical conditions.** (a)  
9 Under the provisions of this section, the Department of Health and Social Services  
10 may pay providers of medical care for services provided to needy persons suffering  
11 from a chronic or acute medical condition who may apply for assistance under (b) of  
12 this section.

13 (b) A needy person suffering from a chronic or an acute medical condition  
14 who is eligible for general relief assistance under AS 47.25.120 and is not eligible for  
15 medical assistance under AS 47.07 may apply for assistance under this section. The  
16 department shall make a determination of eligibility based on a general relief assistance  
17 application. The requirements of AS 47.08.020 - 47.08.140 do not apply to assistance  
18 sought under this section, except that, notwithstanding (f) of this section, neither  
19 reimbursement nor assistance may be paid by the department for services that are listed  
20 in AS 47.08.050.

21 (c) The payment rate for facilities under this section shall be the same as that  
22 established by regulation for medical services under AS 47.25.195, and payment rates  
23 under this section for other providers may not exceed those established under  
24 AS 47.07.

25 (d) The Department of Health and Social Services may limit the amount,  
26 duration, and scope of services covered under this section by regulation. If the  
27 Department of Health and Social Services finds that the cost of assistance for all  
28 persons eligible under this section will exceed the amount allocated for that assistance  
29 during the fiscal year, the Department of Health and Social Services may limit  
30 coverage for certain medical services by regulation in order to provide the most critical  
31 care within the available appropriations.

(e) The Department of Health and Social Services may adopt regulations to implement and interpret this section.

(f) <sup>Under the Department of Health and Social Services</sup> In this section, chronic or acute medical conditions ~~include conditions~~ requiring any of the following services:

(1) prescription drugs and medical supplies prescribed to treat a person who has

(A) a terminal illness;

(B) cancer and requires chemotherapy; or

(C) a chronic condition that would normally, in its untreated course, result in the death or disability of the recipient, but that is amenable to outpatient medication; the chronic conditions for which the cost of prescription drugs may be paid include the following diagnoses:

(i) diabetes and diabetes insipidus;

(ii) seizure disorders;

(iii) chronic mental illness;

(iv) hypertension;

(2) physician services

(A) related to care under (3) of this subsection;

(B) provided in a hospital emergency room the same day on which the recipient is admitted for care under (3) of this subsection;

(C) provided to a recipient residing in a nursing home; or

(D) provided in either an outpatient or an inpatient setting to a recipient with a diagnosis described in (1) of this subsection;

(3) inpatient hospital services that cannot be performed on an outpatient basis and that are certified as necessary by a professional review organization consulted by the Department of Health and Social Services but not including inpatient psychiatric hospital services;

(4) outpatient laboratory and x-ray services;

(5) medical transportation related to care under (3) of this subsection or nursing facility care;

(6) outpatient surgical services;

may pay for the following services when provided to needy persons with acute medical conditions

1 (7) nursing facility care.

2 \* **Sec. 7. TRANSITIONAL PROVISION.** Notwithstanding AS 47.07.020(b)(12), added  
3 by sec. 1 of this Act, an individual described in that provision is eligible for medical  
4 assistance under AS 47.07 without the payment of a premium or other cost-sharing charges  
5 for the first two months of the individual's receipt of assistance under AS 47.07.020(b)(12).  
6 Beginning in the third month of the individual's receipt of assistance under  
7 AS 47.07.020(b)(12), the individual shall pay one-twelfth of an annual premium that is  
8 determined by applying a percentage to the annual net income of the individual's family. The  
9 applicable percentage, Y, shall be calculated according to the formula of  $Y = (X-100)/15 -$   
10  $0.75(N-1)$ , where X is the annual net income of the individual's family expressed as a  
11 percentage of the official federal poverty line for a family of the size involved and N is the  
12 number of persons in the individual's family; however, an individual is not required to pay  
13 a premium under this section if the individual's family has a net income that is less than the  
14 applicable federal poverty line for a family of the size involved or if the value of Y calculated  
15 under this section is a negative number. The premium required under this section is payable  
16 until the Department of Health and Social Services, by regulation, establishes another system  
17 for setting and collecting a premium or other cost-sharing charges for persons who receive  
18 medical assistance because they are eligible under AS 47.07.020(b)(12), as enacted by sec. 1  
19 of this Act. For purposes of this section, the annual net income of the individual's family  
20 shall be determined under applicable federal regulations and guidelines.

21 \* **Sec. 8. REGULATIONS.** The Department of Health and Social Services shall adopt  
22 regulations establishing the sliding fee scale for premiums or other cost-sharing charges  
23 described in sec. 1 of this Act by July 1, 1999.

24 \* **Sec. 9. REVISOR INSTRUCTION.** In the following statute sections, the revisor of  
25 statutes shall substitute the spanned reference "AS 47.08.010 - 47.08.140" for references to  
26 "this chapter": AS 47.08.040, 47.08.050, 47.08.120, 47.08.130, and 47.08.140.

27 \* **Sec. 10.** Sections 4 - 6 and 9 of this Act take effect July 1, 1998.

AMENDMENT

5-10-98

OFFERED IN THE SENATE  
TO: SCR 31

BY S. RLS

1 Page 1, line 2:

2 Delete "the"

please amend  
your # LS 1796/E

3 Page 1, line 3:

4 Delete "progr"

5 Page 1, line 7:

6 Delete "the"

KRISTEN BOMENGEN  
DEPT. LAW

7 Page 1, line 8,

8 Delete "prog"

CEL-321-0366

Tim Bennett  
3770

AMENDMENT

5-10-93

OFFERED IN THE SENATE

BY S. R. S.

TO: SCS CSHB 459(FIN)

*please amend yours  
# LS 1504 / L*

*- TIM BENINTENDI  
3770*

1 Page 1, line 7, following "funding;":

2 Delete "and"

3 Page 1, line 11:

4 Delete "groups."

5 Insert "groups; relating to catastrophic illness assistance; establishing a medical  
6 assistance program for chronic and acute medical conditions; and providing  
7 for an effective date."

8 Page 4, following line 14:

9 Insert new bill sections to read:

10 **\*\*Sec. 4.** AS 47.08.010 is repealed and reenacted to read:

11 **Sec. 47.08.010. Reimbursement of providers; acceptance of applications.**

12 (a) Under the provisions of this chapter, the Department of Health and Social Services  
13 may pay providers of medical care for

14 (1) services provided to needy persons suffering from a chronic or acute

1 medical condition who meet the eligibility criteria for general relief assistance under  
2 regulations adopted under AS 47.25.120 and who are not eligible for medical  
3 assistance under AS 47.07; and

4 (2) if a determination is made by the commissioner of the Department  
5 of Health and Social Services that the appropriations for a given fiscal year are  
6 sufficient to provide relief for catastrophic illness under this chapter, costs incurred  
7 by persons who have accrued unpaid medical costs due to a catastrophic illness that  
8 meets the requirements of this chapter and results in financial catastrophe to the  
9 person or the person's family.

10 (b) At the beginning of each fiscal year, the commissioner of health and social  
11 services shall make a determination of whether sufficient appropriations have been  
12 made to provide reimbursement for catastrophic medical expenses under  
13 AS 47.08.020-47.08.140 after the Department of Health and Social Services meets  
14 the anticipated costs for needy persons eligible under (a)(1) of this section. If  
15 appropriations are not anticipated to be available to serve the persons identified under  
16 (a)(2) of this section, the department may not accept applications for that fiscal year.

17 \* Sec. 5. AS 47.08 is amended by adding a new section to read:

18 **Sec. 47.08.015. Assistance for chronic and acute medical conditions.** (a)  
19 Notwithstanding any contrary provisions of this chapter, a needy person suffering  
20 from a chronic or an acute medical condition, who is eligible for general relief  
21 assistance under regulations adopted under AS 47.25.120 and is not eligible for

1 medical assistance under AS 47.07, may apply for assistance under the chronic or  
2 acute medical assistance (CAMA) program in accordance with this section. The  
3 department shall make a determination of eligibility based on a general relief  
4 assistance application. The requirements of AS 47.08.020-47.08.140 do not apply to  
5 assistance sought under this section, except that <sup>neither reimbursement nor</sup> ~~assistance may not include the~~ <sup>120</sup> ~~services~~ <sup>which are excluded under</sup> ~~listed in~~ AS 47.08.050. The payment rate for facilities is the same as that <sup>shall</sup> ~~be~~ <sup>permitted</sup> ~~for~~  
6 established by regulation for medical services under AS 47.25.195 and payment rates  
7 for other providers may not exceed those established under AS 47.07.

9 (b) The Department of Health and Social Services may limit the amount,  
10 duration, and scope of services under this section by regulation. If the Department  
11 of Health and Social Services finds that the cost of assistance for all persons eligible  
12 under this section will exceed the amount allocated for that assistance during the  
13 fiscal year, the Department of Health and Social Services may limit coverage for  
14 certain medical services by regulation in order to provide the most critical care within  
15 the available appropriations.

16 (c) The Department of Health and Social Services may adopt regulations to  
17 implement and interpret this section.

18 (d) For the purposes of this section, "chronic or acute medical conditions"  
19 include conditions requiring the following services:

20 (1) prescription drugs and medical supplies prescribed to treat a person

21 who

1 (A) has a terminal illness;

2 (B) has cancer and requires chemotherapy; or

3 (C) has a chronic condition that would normally in its untreated course  
4 result in the death or disability of the recipient, but which is amenable to  
5 outpatient medication; the chronic conditions for which drugs will be paid  
6 include the following diagnoses:

7 (i) diabetes and diabetes insipidus;

8 (ii) seizure disorders;

9 (iii) chronic mental illness;

10 (iv) hypertension;

11 (2) physician services

12 (A) related to major medical care provided in a hospital on an inpatient  
13 basis;

14 (B) provided in a hospital emergency room the same day on which the  
15 recipient is admitted for major medical care;

16 (C) provided to a recipient residing in a nursing home; or

17 (D) provided in either an outpatient or an inpatient setting to a recipient  
18 with a diagnosis described in (1) of this subsection;

19 (3) major medical care, which means inpatient hospital services that cannot be  
20 performed on an outpatient basis and that are certified as necessary by the  
21 professional review organization contracted by the Department of Health and Social

- 1 Services but does not mean inpatient psychiatric hospital services;
- 2 (4) outpatient laboratory and x-ray services;
- 3 (5) medical transportation related to major medical care or nursing facility
- 4 care;
- 5 (6) outpatient surgical services;
- 6 (7) nursing facility care.”

7 Renumber the following b<sup>1</sup> sections accordingly

8 Page 5, line 6:

9 Insert a new bill section to read:

10 **\*\* Sec. 7. Sections 4 and 5 of this Act take effect July 1, 1998.**

## ANALYSIS OF SCS CSIB 459 (FIN)

### Introduction

Disabled persons seeking to re-enter the work force sometimes face a hurdle to re-employment. Those who have high monthly medical costs, or are medically fragile, need adequate medical insurance to pay their medical bills, and to provide a safety net if their medical condition worsens while they are employed. Many disabled persons are prevented by their disability from engaging in the same type of job as they did before becoming disabled. Typically, on re-entry to the work force, they may be compelled to choose low-skill, entry-level positions or part-time employment. Characteristic of these types of jobs is low pay and inadequate health insurance benefits, or no health insurance at all.

Federal law permits certain recipients of Supplemental Security Income (SSI) to continue to receive Medicaid after they have gone back to work, if they can demonstrate (1) that their earnings are insufficient to provide the reasonable equivalent of Medicaid, and (2) that termination of Medicaid benefits would seriously inhibit their ability to continue employment. This program is referred to as the Section 1619 program, in reference to the section of the Social Security Act that provides the benefit. The statute creating the program is codified at 42 United States Code § 1382h.

Section 4733 of the Balanced Budget Act of 1997 permits states to exercise the option to expand the class of disabled person who can work while continuing to receive Medicaid. This section permits a state to provide Medicaid to disabled individuals so long as their family income does not exceed 250% of the federal poverty thresholds, and so long as they contribute towards the Medicaid program by paying premiums or charges on a sliding scale according to their income. The federal act gives the State discretion to determine the sliding scale.

SCS CSIB 459 if adopted would exercise the option of Section 4733 of Public Law No. 105-33.

Midwife services are currently first in the list of optional medical services and optionally eligible groups for elimination of coverage during periods of shortage of Medicaid funding. Moving midwife services to a lower position on the eligibility list will increase competition among providers for birthing and related services, thereby lowering overall Medicaid costs. SCS CSIB 459 moves midwife services from first to seventh on the priority list, but does not otherwise change the relative order of other optional services and optional eligibility groups.

### Sectional Analysis

Section 1. Under state law, addition of further categories of persons eligible for Medicaid may occur only by legislative revision of AS 47.07.020. See AS 47.07.020(d). This section of the

bill amends AS 47.07.020(b) to add disabled workers, subject to the eligibility criteria, to the list of persons who may receive Medicaid.

Section 2: Because of limits in appropriations from year to year, the Legislature is not able to fund all services for all persons who may be eligible for medical assistance, including Medicaid. It is necessary to create a priority in allocation of appropriated funds to guide the Department of Health and Social Services (Department). AS 47.07.035 establishes a priority list for optional medical services and eligibility groups. This section of the bill amends AS 47.07.035 to place the category of disabled workers eligible for benefits under the bill thirty-second on the priority list, meaning that disabled workers would be the last to lose Medicaid benefits during periods of limited funding. This section also moves midwife services from first on the priority list, to seventh, while not changing the relative order of other optional services and optional groups.

Section 3: This section revises a definition regarding personal care services to give more flexibility in the way that these services may be delivered to a disabled person. This modification will help make personal care service delivery more efficient and expand the employment opportunities for disabled persons.

Section 4: This section contains a transitional provision that directs the Department to provide this benefit to disabled workers immediately upon the effective date that the bill becomes law, and prior to the adoption of regulations to implement the act. The section provides for a transitional premium on a sliding scale that is determined as a percentage of net family income and family size. The formula chosen is an effort to set a transitional premium that is fair regardless of family size. In application at the threshold of eligibility (250% of the poverty line), the transitional premium formula results in disabled persons living in families paying a slightly higher monthly premium, but a lower overall percentage of net family income, than a single person living alone. This avoids penalizing disabled persons who live in families, yet also recognizes that those with larger family incomes should contribute according to their greater ability to pay, as compared to a single individual living alone.

Section 5: This section directs the Department to adopt regulations to implement the option, with a deadline for adoption of regulations of July 1, 1999. Because the Department's regulations are to provide a sliding fee scale that is reflective of need, workers who receive health insurance benefits from a private insurance program might reasonably be required to demonstrate their need for additional coverage under the Medicaid program. For example, a new employee with a probationary period before private health insurance benefits begin, who also must satisfy a one-year period of non-coverage for a pre-existing medical condition, would benefit from receiving Medicaid coverage under the bill until his or her private medical insurance began to apply. The bill gives the Department discretion in establishing this program to adopt regulations that are reflective of need, subject however that the regulations should not be so restrictive as to frustrate the purpose for which the option is provided. Thus a worker should not be made ineligible for the benefit just because the worker has health insurance through employment, if the worker can demonstrate need because of limitations or exemptions in the private insurance policy, unusually high regular medical expenses or other inadequacy in the private health insurance benefits received.



May 8, 1998

By hand delivery

Hon. Tim Kelly  
Chair, Rules Committee  
Alaska State Senate  
State Capitol, Room 101  
Juneau, AK 99801

JUNEAU

230 South Franklin  
Suite 209  
Juneau, AK 99801  
(907) 586-1627  
FAX (907) 586-1066

Re: **SCS CSIB 459: Medicaid Buy-in for Disabled Workers  
Re-listing of Midwife Services**

Dear Senator Kelly:

I enclose a summary of SCS CSIB 459 to help you and your staff get up to speed on it. The fiscal implications of this bill are very favorable to the General Fund. This bill provides the bridge in health insurance coverage that many disabled people need to resume work. At the same time, General Fund savings occur by reducing Adult Public Assistance expenditures. A summary of the fiscal notes on the bill is attached.

Another element of the bill is the change in order of midwife services on the Medicaid de-funding list (AS 47.25.205). **Please note that this is not a disability-related issue.** However, to assist in deliberation on the bill, I provide a summary of the issue.

Historically, midwife services have been first on the Medicaid de-funding list, which means that midwife services are the **first to be eliminated** when Medicaid funds are short. As a practical matter, I understand that midwife services have never been funded for Medicaid-eligible recipients because of this position on the Medicaid de-funding list. Yesterday afternoon, the DHHS, Division of Medical Assistance, provided a fiscal note which predicts that by moving midwife services to a better position on the list, the State will realize significant savings in reduced birthing costs.

The House-passed version of HB 459 moves midwife services from 1<sup>st</sup> to 14<sup>th</sup> on the Medicaid de-funding list. To avoid a free-for-all effort to re-order the Medicaid de-funding list, the House adopted a very specific title to describe the change to the Medicaid de-funding list.

The Senate HESS committee passed the bill leaving the order of the Medicaid de-funding list the same as the House version of the bill. Senate HESS did change to

MEMBER OF THE  
NATIONAL  
ASSOCIATION OF  
PROTECTION &  
ADVOCACY  
SYSTEMS

Hon. Tim Kelly, Alaska State Senate

Re: SCS CSIB 459: Medicaid Buy-in for Disabled Workers / Midwife Services Re-listing

May 8, 1998

Page 2

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an unrelated section regarding transitional premiums for the disability-related aspect of the bill.

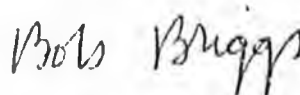
The Senate Finance committee passed the bill this morning, but changed the order of midwife services from 14<sup>th</sup> (as in the Senate HESS and House versions of the bill) to 7<sup>th</sup>. **Because of the very tight title provided by the House, this Senate Finance Committee amendment will necessitate a title change** in the Senate version of the bill. I've summarized the three bills regarding the Medicaid-defunding list in an attached sheet.

Our position on where midwife services exist on the Medicaid de-funding list is basically neutral. However, the fiscal note for the bill does project significant savings to the Medicaid program by improving the position of midwife services, which increases the Medicaid dollars for all recipients, including the disabled. I understand that these savings will be realized as long as midwives are placed in a position on the de-funding list that ensures funding of the service.

**We urge you to pass HB 459 out of Rules as quickly as possible, with an appropriate resolution to ratify the Senate Finance Committee's title-changing amendment to the bill, and get this bill to the Senate floor for debate and passage.** We stand ready to provide whatever assistance you and your staff need in order to move the bill.

This bill is very important to the disability community because it helps promote employment, one of the most valuable attributes of inclusion in our community.

Very truly yours,



Robert B. Briggs  
Staff attorney

Encls.

cc: (w/ encls.)

Hon. Loren Lemman  
Hon. Robin Taylor  
Hon. John Torgerson  
Hon. Jim Duncan  
Hon. Con Bunde

cc: (w/o encls.)

Jim Parker, DLC - Anchorage  
Dawn Pederson



May 8, 1998

## MEDICAID BUY-IN TO HELP DISABLED WORKERS GET BACK TO WORK

### PROBLEM:

- *A significant hurdle to re-employment of the disabled: obtaining adequate health insurance coverage*
- *Forced into a cycle of dependency: Some disabled have high monthly medical expenses, such as organ transplant recipients who take immunosuppressant medications. Working, under current law, may cause a disabled person to lose Medicaid or Medicare. Without adequate private health insurance, these persons are better off receiving a disability check and *not* working rather than working with inadequate health insurance*
- *In 1997 Congress passed a law to help disabled persons get back to work: Section 4733 of the Balanced Budget Act of 1997 provides a state option to permit workers with disabilities to buy into Medicaid. Alaska can now choose an option for Medicaid on a sliding fee scale for disabled workers – its up to the Legislature to exercise the option*

### SOLUTION:

- ① *Alaska should exercise the Medicaid Buy-In Option: a disabled worker pays part of the Medicaid cost on a sliding fee scale with eligibility limited to 250% of the federal poverty thresholds*
- ② *SCS CSHB 459 implements the state's option: HB 459 will make Alaska one of the first states to exercise this option and send a strong signal of support for employment of disabled workers. Fiscal notes project net savings in four years based on reduced Adult Public Assistance payments for the disabled re-entering the work force<sup>1</sup>*
- ③ *Midwife services are given a higher priority for Medicaid funding: A non-disability aspect of the bill is that midwife services, currently first to be cut when Medicaid dollars are short, will be given a higher funding priority. This will save Medicaid dollars, benefiting all Medicaid recipients including the disabled*

<sup>1</sup> Source: Fiscal Notes for Medicaid Facilities, Medicaid Non-Facilities, Adult Public Assistance, and Health Purchasing Group components, Medical Assistance BRU, Dept. of Health and Social Services (dated March 2, 1998 and May 7, 1998) for HB 459 and SCS HB 459 (HES).

MEMBER OF THE  
NATIONAL  
ASSOCIATION OF  
PROTECTION &  
ADVOCACY  
SYSTEMS

**Summary of Fiscal Impact of SCS CSHB 459**  
**Medicaid Buy-In Option / Midwife Services Re-listing**  
(all figures in thousands)

**- Federal and State Funds Combined -**

	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>
Medicaid Facilities	(\$ 43.7)	\$ (103.3)	\$ (142.1)	\$ (161.2)	\$ (170.9)	\$ (192.3)
Medicaid Non-Facilities	40.1	136.0	116.3	116.0	115.4	114.8
Health Purchasing Group	4.0	0	0	0	0	0
<u>Subtotal</u>	<u>\$ 0.4</u>	<u>\$ 32.7</u>	<u>(\$ 25.8)</u>	<u>(\$ 45.2)</u>	<u>(\$ 55.5)</u>	<u>(\$ 77.5)</u>
Adult Public Assistance	(33.0)	(190.5)	(311.0)	(427.7)	(540.4)	(649.3)
<b><u>Total</u></b>	<b><u>(\$ 32.6)</u></b>	<b><u>(\$ 157.8)</u></b>	<b><u>(\$ 336.8)</u></b>	<b><u>(\$ 472.9)</u></b>	<b><u>(\$ 595.9)</u></b>	<b><u>(\$ 571.8)</u></b>

**- State General Funds Only -**

	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>
Medicaid Facilities	(\$ 17.6)	(\$ 41.5)	(\$ 57.1)	(\$ 64.8)	(\$ 68.7)	(\$ 77.3)
Medicaid Non-Facilities	16.1	54.7	46.8	46.6	46.4	46.1
Health Purchasing Group	2.0	0	0	0	0	0
<u>Subtotal</u>	<u>\$ 0.5</u>	<u>\$ 13.2</u>	<u>(\$ 10.3)</u>	<u>(\$ 18.2)</u>	<u>(\$ 22.3)</u>	<u>(\$ 31.2)</u>
Adult Public Assistance	(33.0)	(190.5)	(311.0)	(427.7)	(540.4)	(649.3)
<b><u>Total</u></b>	<b><u>(\$ 32.5)</u></b>	<b><u>(\$ 177.3)</u></b>	<b><u>(\$ 321.3)</u></b>	<b><u>(\$ 445.9)</u></b>	<b><u>(\$ 562.7)</u></b>	<b><u>(\$ 680.5)</u></b>

Source: Dept. of Health and Social Services, Divisions of Public Assistance and Medical Assistance, Fiscal Notes dated March 2, 1998 and May 7, 1998.

SCS CSHB 459 - Medicaid Buy-In for Disabled Workers / Midwife Services Re-listing

Summary of Priority in AS 47.25.205 (Medicaid de-funding priority list) \*

	<u>Current Law</u>	<u>CSHB 459</u>	<u>SCS CSHB 459 (HES)</u>	<u>SCS CSHB 459(FIN)**</u>
Midwife Services	1	14	14	7
Disabled Workers	no provision	32	32	32

\*A low number means the service or optional Medicaid group will be first to have services cut during periods of low funding. A higher priority number means a service will be less likely to lose funding during periods of funding shortage.

\*\* Requires title change resolution to ratify Senate Finance amendment.

May 8, 1998

**HB**

**461**

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Finance



P.O.Box 113200  
Juneau, AK 99811-3200  
(907) 465-3795  
FAX (907) 463-4885

### MEMORANDUM

DATE: March 25, 1998

TO: Senator Drue Pearce, Co-Chair  
Senate Finance Committee

FROM: Susan Taylor, Fiscal Analyst *SM Taylor*

SUBJECT: SENATE CS FOR CSHB 461(Fin)

Attached is a sectional for SENATE CS FOR CSHB 461(Fin).

SENATE CS FOR CS FOR HOUSE BILL 461(FIN)

FY98 Supplemental Appropriations

(in thousands)

	Dept.	BRU/ Comp	Description	Sec #	Federal	Total GF	Other	Fund Source	Total	Senate Changes	Fund Source	Gov's Sec #
1	DOC	Existing CRCs	Additional costs	1 a		804.0			804.0			1(c)
2	DOC	Existing CRCs	Add	1 b		18.0			18.0			
3	DOC	New CRCs	Delete	1 b		-18.0			-18.0			
4	HSS	Maternal, Child, & Family Health	Maternal child care health specialty clinics	1 c	100.0	0.0			100.0			1(d)
5	DMV	CIP	RSA w/UA to upgrade & modernize the Poker Flats Research Range	1 d	20,000.0	0.0			20,000.0			1(e)
6	UoA	CIP	University Receipts for Poker Flats Research Range, see subsection (e).	1 e		6.0	20,000.0	Univ Rcpts	20,000.0			1(i)
7	DFG	Subsistence/ Special Projects	Subsistence harvest data collection	1 f	120.6	0.0			120.6			1(g)
8	DMV	Youth Corps	Alaska National Guard youth corps challenge program	1 g		608.0			608.0			1(j)
9	DOA	Leases	Lease costs	1 h		1,029.4			1,029.4			1(k)
10	DOR	CSED	CSED costs. These funds lapse into the funds from which appropriated. Lapse June 30, 2001	1 i	1,238.4	65.2			1,303.6			12(c)(7)
11	DOR	AHFC	Lease paym'ts provided by tenants in the Bank of America building for operating and maintenance costs	1 j		0.0	1,786.4	AHFC Corp Rcpts	1,786.4			1(a)
12	DOC	Institutions	Costs associated with complying with Cleary settlement	1 k	25.7	1,581.3			1,607.0			
13	DFG	Commercial Fisheries/ Special Projects	Sitka herring roe kelp fishery	1 l		0.0	463.8	Test Fish	463.8			8(b)
14	DFG	CIP	Decrease Federal and increase Fish & Game funds for Fairbanks Indoor Shooting Range and Hunter Education Facility Construction	2	-500.0	0.0	500.0	Fish & Game Fund	0.0	0.0	Fed / Fish & Game Fund	8(c)

SENATE CS FOR CS FOR HOUSE BILL 461(FIN)

FY98 Supplemental Appropriations

(in thousands)

	Dept.	BRU/ Comp	Description	Sec #	Federal	Total GF	Other	Fund Source	Total	Senate Changes	Fund Source	Gov's Sec #
15	LAW	Special Litigation	Defense of the tort reform constitutional challenge Lapse date 6/30/99	3		199.5			199.5	199.5	GF	
16	DNR	CIP	Perserverance Trail - repeal appropriation	4		-120.0			-120.0	-120.0	GF	
17	DNR	Parks Management	Reappropriate for equipment repair Lapse date 6/30/99	4		4.0			4.0	4.0	GF	
18	DPS	Council on Domestic Violence and Sexual Assault	Reappropriate for batterers programs - this amount would be reduced by any shortfall in the amount repealed Lapse date 6/30/99	4		116.0			116.0	116.0	GF	
19	DOT	CIP	Glennallen to Tok Interstate Highway resurfacing and rehabilitation (Section 1(f) in House bill)	5	8,500.0	0.0						1(0)
20	DOT	CIP	Glennallen to Tok Interstate Highway resurfacing and rehabilitation - Reappropriate	5		600.7			600.7	600.7	GF	
21	DOT	CIP	State Match for Federal-Aid Highways Projects - Repeal	5		-600.7			-600.7	-600.7	GF	
<b>Total</b>					<b>29,484.7</b>	<b>4,287.4</b>	<b>22,750.2</b>		<b>48,022.3</b>	<b>199.5</b>		
					<u>House</u>	<u>Senate</u>	<u>Difference</u>					
Federal					29,984.7	29,484.7	-500.0					
General Funds					4,087.9	4,287.4	199.5					
Other					22,250.2	22,750.2	500.0					
Total					<u>56,322.8</u>	<u>56,522.3</u>	<u>199.5</u>					
Shaded areas denote where the Senate made changes to the House bill.												

ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
Division of Legislative Finance



P.O.Box 113200  
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MEMORANDUM

DATE: March 25, 1998

TO: Senator Drue Pearce, Co-Chair  
Senate Finance Committee

FROM: Susan Taylor, Fiscal Analyst *SMT Taylor*

SUBJECT: SENATE CS FOR CSHB 461(Fin)

Attached is a sectional for SENATE CS FOR CSHB 461(Fin).

SENATE CS FOR CS FOR HOUSE BILL 461(FIN)

FY98 Supplemental Appropriations

(in thousands)

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5	DMV	CIP	RSA w/UA to upgrade & modernize the Poker Flats Research Range	1 d	20,000.0	0.0			20,000.0			1(e)
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7	DFG	Subsistence/ Special Projects	Subsistence harvest data collection	1 f	120.6	0.0			120.6			1(g)
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SENATE CS FOR CS FOR HOUSE BILL 461(FIN)

FY98 Supplemental Appropriations

(in thousands)

	Dept.	BRU/ Comp	Description	Sec #	Federal	Total GF	Other	Fund Source	Total	Senate Changes	Fund Source	Gov's Sec #
15	LAW	Special Litigation	Defense of the tort reform constitutional challenge Lapse date 6/30/99	3		199.5			199.5	199.5	GF	
16	DNR	CIP	Perserverance Trail - repeal appropriation	4		-120.0			-120.0	-120.0	GF	
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19	DOT	CIP	Glennallen to Tok Interstate Highway resurfacing and rchabilitation (Section I(f) in House bill)	5	8,500.0	0.0						1(f)
20	DOT	CIP	Glennallen to Tok Interstate Highway resurfacing and rehabilitation - Reappropriate	5		600.7			600.7	600.7	GF	
21	DOT	CIP	State Match for Federal-Aid Highways Projects - Repeal	5		-600.7			-600.7	-600.7	GF	
<b>Total</b>					<b>29,484.7</b>	<b>4,287.4</b>	<b>22,750.2</b>		<b>48,022.3</b>	<b>199.5</b>		
					<u>House</u>	<u>Senate</u>	<u>Difference</u>					
Federal					29,984.7	29,484.7	-500.0					
General Funds					4,087.9	4,287.4	199.5					
Other					22,750.2	22,750.2	500.0					
Total					<u>56,322.8</u>	<u>56,522.3</u>	<u>199.5</u>					
Shaded areas denote where the Senate made changes to the House bill.												

**HB**

**464**

# Alaska State Legislature

CHAIR:  
REPRESENTATIVE  
JEANNETTE JAMES

State Capitol  
Room 102  
Juneau, Alaska  
99801-1182  
(907) 465-3743  
FAX (907) 465-2381



House of Representatives  
HOUSE STATE AFFAIRS

MEMBERS:  
REPRESENTATIVES  
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FRED DYSON  
MARK HODGINS  
KIM ELTON  
ETHAN BERKOWITZ

## SPONSOR STATEMENT

HOUSE BILL 464,

"An Act relating to state veterans' home facilities"

4/3/98

House Bill 464 amends Chapter 98 SLA 1992. This special law of Alaska allows Alaska to have an Alaskan Veterans' Home and includes verbiage identifying domiciliary care. However, in order for the state to recuperate approximately 65% of the construction costs of the home from the Veterans Administration if one is eventually built, the law must include nursing facilities. Without them, the state would have to shoulder the burden of all construction costs.

Further, Veterans Homes in other states are self sufficient in many cases because they contain nursing facilities. The nursing facility allows the state to collect medical fees from Medicare, Medicaid, and other third party health insurance. This offsets any state operating costs.

Please note that this bill does not request funding for a veterans home, it merely changes the law to allow one should it be deemed feasible. Currently the Veterans' organizations are raising money for a study to determine the feasibility and the logistics of having such a home in Alaska. HB 464 simply clears the way.

Please note also that HB 464 is now accompanied by two zero fiscal notes.

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. HB 464

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: An Act relating to state veterans' home BRU: Medical Assistance  
facilities. Component: Medicaid Facilities  
 Sponsor: House State Affairs COMPONENT SERIAL NO. 230  
 Requestor: House (MVA) See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

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

Provisions in House Bill 464 require the Department of Administration to require residents of state veterans' homes to pay for the full cost of their care, except for federal and other nonstate assistance that residents may receive.

The Division of Medical Assistance administers two programs which pay for nursing home services: Medicaid and General Relief Medicaid. The Division assumes that Medicaid, for which the state contributes approximately 40 percent of the cost of services, and GRM, for which the state pays 100 percent of the cost of covered services, are not "federal or nonstate assistance." Therefore, the Department of Administration would not be able to accept reimbursement from either of these programs.

Any change, or different interpretation, of this provision could result in the Medicaid or GRM programs incurring substantial cost increases.

3/16/98  
 Prepared by: Jon Sherwood  
 Division: Medical Assistance  
 Approved by Commissioner: Karen Perdue, Commissioner  
 Agency: Department of Health & Social Services

Phone: 465-3355  
 Date: 03/16/98  
 Date: 3/18/98

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**FISCAL NOTE**

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. HB 464**

Revising Date: March 31, 1998  
 Title: "An Act relating to state veterans' home facilities."  
 Sponsor: (H) STA  
 Requestor: (H) STA

Department Affected: Administration  
 BRU: Alaska Longevity Programs  
 Component: AK Longevity Programs Management  
 COMPONENT SERIAL NO. 2263

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE:** (Thousands of Dollars)

1000 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
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>

Estimate of any current year (FY 98) cost: \$ none

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill does not fiscally impact the Department of Administration.

Prepared by: Jim Kohn, Director  
 Division: Alaska Longevity Programs

Phone: 465-4400  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 3/31/98

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**HB**

**467**

## **HB467: Regarding Legislative Contract Employees General Information**

- Most State Agencies have the ability to hire temporary employees who do not participate in the Public Employees Retirement System. This does not include seasonal employees, but generally short-term employees, who may work on either a salaried or hourly basis. They are usually referred to as "Temporary" or "Non-Permanent" employees. The Legislature does not have this ability for any of its employees if they work any portion of the year during the legislative session.
- The current retirement law restrictions were put in place to provide retirement benefits to legislative staff employees who were hired as "Daily Paid" employees that would otherwise not qualify to participate in the retirement system. This "Daily Paid" status for our employees has not been used since the mid 1980s so the language restriction is really no longer necessary.
- The problem in the past has been inconvenient and inflexible, but has recently become a significant issue with the Chief of Security position. In the case of the Chief of Security we are severely restricted, if not completely unable, to fill a position because the requirements of this position almost dictate hiring retired Alaska peace officers. And, retirees may not work in a position covered by the retirement system.
- We are no longer able to use 'contractors' for the Chief of Security because of IRS regulations on employee vs employer relationships. The individual clearly must be considered an employee. This bill will allow us to conform with IRS regulations and satisfy the State retirement rules.
- HB 467 will not adversely affect any of our current employees. Further, it does not remove the current protection language for temporary employees. It does allow the flexibility of hiring an employee under a "Personal Services Contract". Under this type of contract the person is an employee, on our payroll and paid by personnel, but they will not have retirement credit for the contract period. This eliminates our current retirement restriction when that restriction is not appropriate.

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

NO. \_\_\_\_\_  
BILL VERSION: HB 467  
PUBLISH DATE: \_\_\_\_\_

Revision Date: \_\_\_\_\_ Department Affected: Legislature  
Title: "An act relating to employees of the  
Legislature who are employed under a personal..." BRU: All  
Sponsor: Representative Kott Component: All  
Reques: House Finance Committee

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	-4.3	-4.3	-4.3	-4.3	-4.3	-4.3
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.3</b>

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	-4.3	-4.3	-4.3	-4.3	-4.3	-4.3
FEDERAL FUNDS						
OTHER FUND SOURCE						
<b>TOTAL</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.3</b>

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary)

This bill adds the option of hiring a legislative employee under a personal services contract without enrolling them into the Public Employees Retirement System (PERS). Most State agencies can hire temporary or nonpermanent employees without enrolling them in PERS. The Legislature currently does not have the same ability during a Legislative session. This bill does not adversely affect any current employees. This bill would allow the Legislature to hire summer tour guides, laborers to load the van, and the Security Chief without enrolling these employees in PERS. The savings to the Legislature would be at least 4.3 each year.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852  
Division: Administrative Services Date: 3/13/98

Approved By: Pamela A. Varni, Executive Director *Pamela A. Varni*  
Agency: Legislative Affairs Agency Date: 3/13/98

Distribution (by printer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov., & Impacted Agency(ies).

**HB**

**471**

# LEGAL SERVICES

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

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


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

May 7, 1998

**SUBJECT:** SCS CSHB 471(RLS) (Work Order 20-LS1686P)

**TO:** Senator Tim Kelly  
Chair, Senate Rules Committee  
Attn: Tim Benintendi

**FROM:**  Theresa Bannister  
Legislative Counsel

This memo accompanies the bill described above.

1. Single subject requirement. The contents of the bill appear to be related to the subject of "corporations." However, there is no real logical connection between the sections of the bill. Sec. 1 of the bill involves reinstatement of Native corporations while sec. 2 relates to a program that involves the Alaska Housing Finance Corporation. Under the court's decisions to date, the bill probably would survive a challenge based on the single subject requirement (art. II, sec. 13, Constitution of the State of Alaska). However, the court has evidenced some division on how to treat this issue. Since the single subject is rather tenuous logically in this bill, please be aware that it does raise a single subject question.
2. Germaneness. Please be aware that the change that you have added to HB 471 may be the subject of an objection based on germaneness. Under Uniform Rule 35, a motion or proposition may not be admitted as an amendment if the subject matter is different from that under consideration. The previous subject of the bill addressed reinstatement of Native corporations. To this has been added a provision relating to a program that involves the Alaska Housing Finance Corporation. Although the two subjects are related to corporations, they certainly are not logically related to each other. Germaneness is a parliamentary matter to be determined by the body.
3. Three-reading requirement. The original bill (HB 471) dealt with the boards of commissioners of Native regional housing authorities. The second version and the one that passed out of the House (CSHB 471(CRA)) added a provision dealing with the reinstatement of Native corporations. The third version and the version that you are dealing with (SCS CSHB 471(CRA)) removed the initial subject of HB 471. The proposed CS is adding an unrelated provision involving the Alaska Housing Finance Corporation. It is possible that the changes of subject that this bill has had might cause the bill to be considered not to have received the necessary three readings in each house. The three-readings requirement is a constitutional requirement that cannot be waived.

Senator Tim Kelly

May 7, 1998

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4. Change of title in second house. Finally, as you are already aware, the change of title would be considered out of order in the second house under the Uniform Rules. SCR 29 would enable suspension of the applicable uniform rules so that the title of the bill can be changed. You do not need a new version of SCR 29 to do this for the CS that you have requested.

If I may be of further assistance, please advise.

TLB:jdr

98-288.jdr

Enclosure

0-LS1686VP  
Bannister  
5/7/98

*not  
considered  
by committee*

SENATE CS FOR CS FOR HOUSE BILL NO. 471(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the reinstatement of Native corporations; amending the  
2 definition of 'small community' for purposes of housing programs involving the  
3 Alaska Housing Finance Corporation; and providing for an effective date."

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

5 \* Section 1. AS 10.06.960(k) is amended to read:

6 (k) Notwithstanding (i) of this section and AS 10.06.633(e), a corporation that  
7 is organized as a Native village corporation under the act, that has been involuntarily  
8 dissolved by the commissioner under AS 10.06.633, and that has failed to apply for  
9 reinstatement during the period established under AS 10.06.633(e) may be reinstated  
10 under AS 10.06.633(e) on or before December 31, 1998 [WITHIN ONE YEAR  
11 AFTER AUGUST 7, 1996]. The reinstated corporation and its shareholders have all  
12 of the rights, privileges, liabilities, and obligations that would have applied to them if  
13 the corporation had not been dissolved, and all corporate and shareholder actions taken  
14 during the period of dissolution are considered to be as valid as if dissolution had not

1 occurred. If a corporation elects to reinstate under this subsection and if the  
2 corporation's previously used corporate name is no longer available for use by the  
3 corporation, then, notwithstanding AS 10.06.502 - 10.06.510, an amendment to the  
4 articles of incorporation changing the previously used corporate name may be  
5 adopted by action of the corporation's board of directors alone.

6 \* Sec. 2. AS 18.56.600(2) is amended to read:

7 (2) "small community" means a community with a population of 6,500  
8 [5,500] or less that is not connected by road or rail to Anchorage or Fairbanks, or with  
9 a population of 1,600 [1,400] or less that is connected by road or rail to Anchorage or  
10 Fairbanks; in this paragraph, "connected by road" does not include a connection by the  
11 Alaska marine highway system.

12 \* Sec. 3. Section 1 of this Act takes effect immediately under AS 01.10.070(c).