

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10558 SENATE HEALTH EDUCATION & SOCIAL SERVICES

1 community to serve as local welfare agent; for the purposes of this paragraph, a  
2 "member of the immediate family" includes a spouse, child, parent, brother, sister,  
3 parent-in-law, brother-in-law or sister-in-law;

4 (14) provide education and health-related services and referrals  
5 designed to reduce the number of out-of-wedlock pregnancies and the number of  
6 induced pregnancy terminations in the state;

7 (15) investigate reports of abuse, neglect, or misappropriation of  
8 property by certified nurse aides in facilities licensed by the department under  
9 AS 18.20.

10 \* Sec. 7. AS 47.05.020(a) is amended to read:

11 (a) The power of the department to adopt regulations includes the power to  
12 adopt and enforce reasonable regulations governing the custody, use, and preservation  
13 of the records, papers, files, and communications of the department. The regulations  
14 must provide that financial information concerning an eligibility determination of a  
15 person applying for or receiving cash assistance, a diversion payment, or self-  
16 sufficiency services under the Alaska temporary assistance program shall be disclosed  
17 to a legislator on request of the legislator in connection with official purposes within  
18 the scope of the legislator's legislative functions and related to the administration of  
19 the program consistent with federal law. When, under the law, names and addresses  
20 of recipients of public assistance are furnished to or held by another agency or  
21 department of government, the agency or department of government shall adopt  
22 regulations necessary to prevent the publication of the lists or their use for purposes  
23 not directly connected with the administration of public assistance and legislative  
24 functions. A legislator to whom information relating to the Alaska temporary  
25 assistance program is disclosed under this section may not further disclose the  
26 information except to another legislator and then only in connection with official  
27 purposes within each legislator's legislative functions and related to the administration  
28 of the program consistent with federal law.

29 \* Sec. 8. AS 47.05.030(b) is amended to read:

30 (b) It is not a violation of (a) of this section for the department or an employee  
31 of the department to disclose to a legislator, or for a legislator to solicit, receive, or

1 make use of, financial information concerning an eligibility determination of a person  
 2 applying for or receiving cash assistance, a diversion payment, or self-sufficiency  
 3 services under the Alaska temporary assistance program if the disclosure, solicitation,  
 4 receipt, and use are for official purposes in connection with the legislator's official  
 5 functions and related to the administration of the program consistent with federal law.  
 6 Information provided to a legislator under this subsection shall remain confidential  
 7 and may not be further disclosed except as provided in AS 47.05.020.

8 \* Sec. 9. AS 47.25.975(b) is amended to read:

9 (b) Householders determined by the department to be eligible for assistance  
 10 under the food stamp program may obtain food stamp allotments; however, under  
 11 regulations adopted by the department, a householder may receive all or part of  
 12 the value of the food stamp allotment in the form of a wage subsidy under  
 13 AS 47.27.025(e) if

14 (1) the householder is a member of a family eligible for the Alaska  
 15 temporary assistance program under AS 47.27; and

16 (2) the department determines that the wage subsidy authorized  
 17 under this subsection would aid the householder in the successful completion of  
 18 the family self-sufficiency plan under AS 47.27.030 [COUPONS].

19 \* Sec. 10. AS 47.25.975(c) is amended to read:

20 (c) Food stamp allotments, other than a wage subsidy authorized under  
 21 (b) of this section, [COUPONS] shall be used to purchase food from retail food stores  
 22 that have been approved for participation in the food stamp program. Eligible  
 23 households living in certain remote areas shall be permitted to purchase certain items  
 24 of hunting and fishing equipment for the purpose of procuring food for the household,  
 25 except firearms, ammunition, and other explosives, in accordance with regulations that  
 26 the Secretary of Agriculture adopts.

27 \* Sec. 11. AS 47.25.980(e) is amended to read:

28 (a) The department shall

29 (1) adopt regulations necessary to carry out the food stamp program;

30 (2) cooperate with the federal government and do all things necessary  
 31 to continue state eligibility under the food stamp program;

1 (3) comply with the requirements of 7 U.S.C. 2011 - 2036 (Food  
 2 Stamp Program) [7 U.S.C. 2011-2025 (FOOD STAMP ACT)].

3 \* Sec. 12. AS 47.25.985(a) is amended to read:

4 (a) A person is guilty of a misdemeanor if the person [:]

5 (1) knowingly acquires, possesses, uses, alters, or transfers food stamp  
 6 allotments [COUPONS OR AUTHORIZATION TO PURCHASE FOOD  
 7 COUPONS] in violation of AS 47.25.975 - 47.25.980 or the regulations adopted under  
 8 AS 47.25.980;

9 (2) presents food stamp allotments [COUPONS] or causes them to be  
 10 presented for payment or redemption knowing them to have been transferred,  
 11 received, altered, or used in a manner violating AS 47.25.975 - 47.25.980 or the  
 12 regulations adopted under AS 47.25.980.

13 (3) knowingly acquires, uses, alters, or transfers a wage subsidy  
 14 authorized under AS 47.25.975(b) in violation of AS 47.25.975 - 47.25.980,  
 15 AS 47.27.025(e), or the regulations adopted under AS 47.25.980 or  
 16 AS 47.27.025(e) [REPEALED].

17 \* Sec. 13. AS 47.25.990(3) is amended to read:

18 (3) "food stamp allotments [COUPONS]" means any coupon, stamp,  
 19 electronic benefit, or type of allotment [CERTIFICATE] issued under 7 U.S.C. 2011  
 20 - 2036 (Food Stamp Program) [7 U.S.C. 2011-2025 (FOOD STAMP ACT)];

21 \* Sec. 14. AS 47.25.990(4) is amended to read:

22 (4) "food stamp program" means the federal food stamp program  
 23 authorized by 7 U.S.C. 2011 - 2036 [7 U.S.C. 2011-2025];

24 \* Sec. 15. AS 47.27.005 is amended to read:

25 **Sec. 47.27.005. Duties of the department.** The department shall

26 (1) administer the Alaska temporary assistance program by providing  
 27 cash assistance, diversion payments, [WITH BASIC LIVING EXPENSES] and self-  
 28 sufficiency services to needy children and their families under this chapter and, if  
 29 appropriate, by establishing regional public assistance programs to provide effectively  
 30 for varying conditions in regions of the state designated by the department;

31 (2) establish, by regulation, program standards for [THAT WILL

1 PROVIDE] incentives to work, incentives for financial planning, cash assistance,  
 2 diversion payments, self-sufficiency services, and other opportunities to develop  
 3 self-sufficiency [WHILE PROVIDING ASSISTANCE WITH BASIC LIVING  
 4 EXPENSES];

5 (3) prepare, submit to the federal government, and amend, if necessary,  
 6 a state plan designed to ensure that federal money is available to the state for the  
 7 operation of the program set out in this chapter to provide cash assistance, diversion  
 8 payments, [FOR BASIC LIVING EXPENSES] and self-sufficiency services to needy  
 9 children and their families consistent with the state objectives identified in (2) of this  
 10 section;

11 (4) adopt methods of program administration to ensure consistency  
 12 with the federal requirements under a successor federal program that replaces the aid  
 13 to families with dependent children program;

14 (5) make reports regarding the program to the federal government as  
 15 required under federal law, in the form and containing the information required, and  
 16 comply with the provisions that the federal government determines are necessary to  
 17 ensure correct and verifiable information on the program;

18 (6) provide to the legislature an annual executive summary of the  
 19 information required to be reported to the federal government under (5) of this section;

20 (7) conduct studies and research in order to evaluate and monitor the  
 21 effectiveness of the state program; and

22 (8) adopt regulations and take action to implement, interpret, and  
 23 administer the provisions of this chapter.

24 \* **Sec. 16.** AS 47.27.010 is amended to read:

25 **Sec. 47.27.010. Eligible families.** The following families may apply [FOR  
 26 ASSISTANCE] under the Alaska temporary assistance program:

27 (1) a single parent who has the physical custody of one or more related  
 28 dependent children;

29 (2) a caretaker of one or more dependent children who is a relative to  
 30 at least the fifth degree;

31 (3) a woman in the last trimester of pregnancy; [OR]

1 (4) a two-parent family with physical custody of one or more related  
2 dependent children.

3 \* Sec. 17. AS 47.27.015(a) is amended to read:

4 (a) A family is not eligible for cash assistance under the Alaska temporary  
5 assistance program if the family includes an adult who

6 (1) has received cash assistance [BENEFITS] under the Alaska  
7 temporary assistance program, or a program of another state operated under a federal  
8 assistance grant program for needy families, for a total of 60 months as the caretaker  
9 or spouse of a caretaker of a dependent child or as a pregnant woman, unless the  
10 caretaker or pregnant woman is

11 (A) a person who the department has reasonable cause to  
12 believe is or recently has been the victim of domestic violence, as defined in  
13 AS 18.66.990, and the physical, mental, or emotional well-being of the victim  
14 would be endangered by a strict application of the time limit otherwise  
15 applicable under this subsection;

16 (B) determined, under regulations of the department to be  
17 physically or mentally unable to perform gainful activity;

18 (C) a parent who is providing care for a child who is  
19 experiencing a disability; or

20 (D) a family determined by the department to be exempt from  
21 this paragraph by reason of hardship; or

22 (2) is determined to be fleeing to avoid prosecution, custody, or  
23 confinement after conviction, in this or another jurisdiction, for a crime that is  
24 classified as a felony or a class A misdemeanor under AS 11 or the criminal laws of  
25 the jurisdiction where the criminal activity was committed.

26 \* Sec. 18. AS 47.27.015(b) is amended to read:

27 (b) A family is not eligible for cash assistance or self-sufficiency services  
28 under this chapter for a period of 120 months beginning on the date the adult applicant  
29 for the family is convicted of having fraudulently misrepresented the applicant's  
30 residence in order to receive cash assistance or self-sufficiency services in more than  
31 one state under a program financed with federal money under any successor federal

1 program that replaces the aid to families with dependent children program.

2 \* **Sec. 19.** AS 47.27.015(c) is amended to read:

3 (c) A family is not eligible for cash assistance for the following time periods  
4 if the family's demonstrated need for cash assistance is due to a refusal of or voluntary  
5 separation from suitable employment by the adult applicant, or a custodial parent or  
6 caretaker, without good cause:

7 (1) one month for the first refusal or separation without good cause;

8 (2) six months for the second refusal or separation without good cause;

9 and

10 (3) 12 months for the third and subsequent refusal or separation  
11 without good cause.

12 \* **Sec. 20.** AS 47.27.015(d) is amended to read:

13 (d) A family is not eligible for cash assistance or self-sufficiency services for  
14 up to 12 months if the family's demonstrated need is due to an intentional transfer of  
15 an asset or assets at less than fair market value for the purpose of establishing  
16 eligibility for cash assistance or self-sufficiency services. A period of ineligibility  
17 shall begin on the first day of the month following the transfer of the asset or assets  
18 and shall remain in effect for a number of months equal to the fair market value of the  
19 transferred asset or assets divided by the maximum payment amount for the family as  
20 established under AS 47.27.025, or for 12 months, whichever is less.

21 \* **Sec. 21.** AS 47.27.015(e) is amended to read:

22 (e) An Alaska temporary assistance program applicant or participant who is  
23 administratively disqualified for making a false statement ~~or~~ misrepresentation  
24 knowing it was false, or for knowingly failing to disclose a material fact, in order to  
25 obtain or increase cash assistance or self-sufficiency services under this chapter is not  
26 eligible to receive cash assistance or self-sufficiency services under this chapter for a  
27 period of

28 (1) six months following the first disqualification;

29 (2) 12 months following the second disqualification; and

30 (3) permanently following the third disqualification.

31 \* **Sec. 22.** AS 47.27.015(g) is amended to read:

1 (g) A person who is an alien is not eligible for cash assistance under this  
2 chapter unless the person is a qualified alien under 8 U.S.C. 1641 or an alien excepted  
3 under 8 U.S.C. 1612(b). However, a qualified alien may only be eligible for cash  
4 assistance under this chapter if the person is not precluded by the limited eligibility  
5 provision of 8 U.S.C. 1613.

6 \* Sec. 23. AS 47.27.015(h) is amended to read:

7 (h) When determining under (a)(1) of this section whether an adult has  
8 received cash assistance [BENEFITS] for a total of 60 months, the department shall  
9 disregard the months that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

10 \* Sec. 24. AS 47.27.020(a) is amended to read:

11 (a) An applicant [FOR ASSISTANCE] under the Alaska temporary assistance  
12 program shall complete an application in writing, or by electronic means, and in a  
13 form specified by the department. The applicant must be a pregnant woman or an  
14 individual who has physical custody of the dependent child or children. The  
15 application must be complete and must provide all of the information about the family  
16 and the child or children that is requested by the department. The applicant shall  
17 provide all supporting documentation for verification that the department determines  
18 to be necessary to establish eligibility.

19 \* Sec. 25. AS 47.27.020(b) is amended to read:

20 (b) On the application, each applicant shall attest to whether the family, at any  
21 time, has received cash assistance or self-sufficiency services from another state  
22 program that was established with federal money under any successor federal program  
23 that replaces the aid to families with dependent children program and whether the  
24 family has ever been disqualified from receiving cash assistance or self-sufficiency  
25 services under a successor federal program that replaces aid to families with  
26 dependent children for the period for which the application has been submitted.

27 \* Sec. 26. AS 47.27.020(d) is amended to read:

28 (d) An applicant shall acknowledge the assignment of support rights as  
29 required by AS 47.27.040(a) and shall agree to cooperate with the child support  
30 enforcement agency of the Department of Revenue to the extent required under  
31 AS 47.27.040(b). The applicant shall agree to report all child support payments

1 received directly by the family, during or for a period for which the family is receiving  
2 cash assistance under this chapter, to the department within 15 days after receipt of  
3 those payments.

4 \* **Sec. 27.** AS 47.27.025(a) is amended to read:

5 (a) The department shall provide cash assistance [FOR BASIC LIVING  
6 EXPENSES] to families that establish eligibility based on a determination of need that  
7 considers the family's available income, assets, and other resources, as established by  
8 the department in regulation. Each dependent child in the family is eligible for cash  
9 assistance except as otherwise provided in AS 47.27.015 or 47.27.027(b), and cash  
10 assistance received as a dependent child does not count against eligibility for cash  
11 assistance under this chapter as a caretaker or spouse of a caretaker of a dependent  
12 child or as a pregnant woman.

13 \* **Sec. 28.** AS 47.27.025(b) is amended to read:

14 (b) The amounts of cash assistance [FOR BASIC LIVING EXPENSES] may  
15 not exceed the following:

16 (1) for a dependent child living with a nonneedy relative caretaker,  
17 \$452 per month, plus \$102 for each additional child;

18 (2) for a dependent child living with at least one needy parent or  
19 relative caretaker, \$821 per month, plus \$102 for each additional child and \$102 for a  
20 second needy parent if the second parent is physically or mentally unable to perform  
21 gainful activity as defined by department regulation; or

22 (3) for a family consisting solely of an eligible pregnant woman, \$514  
23 per month.

24 \* **Sec. 29.** AS 47.27.025(c) is amended to read:

25 (c) The department shall, for the months of July, August, and September,  
26 reduce by 50 percent the maximum cash assistance for which the family is otherwise  
27 eligible if the family's eligibility for cash assistance is based on AS 47.27.010(4),  
28 unless the second needy parent is determined, under regulations of the department, to  
29 be physically or mentally unable to perform gainful activity or to be providing care for  
30 a child who is experiencing a disability that requires 24-hour care, as certified by a  
31 physician or other licensed medical professional. However, if the commissioner

1 determines that temporary economic conditions have resulted in decreased  
 2 employment opportunities during those months and a reduction in cash assistance  
 3 would impose an undue hardship on a family, the department may waive application  
 4 of this subsection with respect to that family.

5 \* Sec. 30. AS 47.27.025(d) is amended to read:

6 (d) The department shall reduce cash assistance under this section to the  
 7 extent that the family's shelter costs are lower than the standard shelter allowance used  
 8 by the department for similar families. The shelter allowance for a family whose costs  
 9 are below the standard allowance shall be an amount equal to the family's actual  
 10 verified shelter costs. In this subsection,

11 (1) "shelter allowance" means the portion of the cash assistance  
 12 provided under this section that is allocated by the department for shelter costs;

13 (2) "shelter costs" means

14 (A) rental payments or mortgage payments for the family's  
 15 housing, including payments made for property or mortgage insurance and  
 16 property taxes; and

17 (B) the cost of utilities, including heat, electricity, basic  
 18 telephone service, water, sewer, and garbage services incurred for the family's  
 19 housing; the department may establish different utility cost standards for  
 20 different areas of the state and may use an average utility cost per month based  
 21 on estimated level payments over a 12-month period.

22 \* Sec. 31. AS 47.27.025(e) is amended to read:

23 (e) The department may, instead of paying all of the cash assistance to a  
 24 family under this section, use all or part of the cash assistance as a wage subsidy paid  
 25 to an employer who employs a person in the family at a wage that is higher than the  
 26 wage subsidy. If authorized under AS 47.25.975(b), the department may, instead  
 27 of paying all of a family's food stamp allotment under AS 47.25.975 - 47.25.990 in  
 28 a form restricted to buying food, use all or part of the value of the family's food  
 29 stamp allotment as a wage subsidy paid to an employer who employs a person in  
 30 the family at a wage that is higher than the total of the wage subsidies paid under  
 31 this subsection for employment of the person. A subsidy under this subsection may

1 not exceed one year in duration.

2 \* **Sec. 32.** AS 47.27.026(a) is amended to read:

3 (a) The department may offer a lump-sum diversion payment in place of  
4 ongoing cash assistance [AND SERVICES] to an adult applicant who applies [FOR  
5 ASSISTANCE] under AS 47.27.020 if the adult applicant is job ready and is  
6 determined to need only short-term financial assistance and self-sufficiency services  
7 to meet critical needs in order to secure employment and support for the adult  
8 applicant's family. The department shall set standards and conditions for diversion  
9 payments and self-sufficiency services by regulation.

10 \* **Sec. 33.** AS 47.27.026(b) is amended to read:

11 (b) The department may pay a diversion payment [BENEFITS] to an  
12 applicant's family only if that family appears to be eligible for cash assistance  
13 [BENEFITS] under AS 47.27.020 and to include a job-ready individual based on the  
14 information provided to the department in the application completed under  
15 AS 47.27.020. The department may offer to an applicant with the potential to  
16 participate in the diversion project a choice between

17 (1) having the Alaska temporary assistance program application  
18 processed under AS 47.27.020 and the regulations adopted by the department; or

19 (2) having the application referred to the diversion project of the  
20 Alaska temporary assistance program for a determination of eligibility for a diversion  
21 project payment and self-sufficiency services [BENEFITS] under this section.

22 \* **Sec. 34.** AS 47.27.026(c) is amended to read:

23 (c) The amount of a [THE] diversion payment with self-sufficiency services  
24 must be sufficient to meet the family's immediate needs as determined by the  
25 department and the participant. A diversion payment may not exceed the amount the  
26 family would be eligible to receive as cash assistance in the first three [TWO] months  
27 of eligibility under AS 47.27.025 if the family did not elect to receive a diversion  
28 payment.

29 \* **Sec. 35.** AS 47.27.026(d) is amended to read:

30 (d) As a condition of a family receiving a diversion payment under this  
31 section, the participant must sign an agreement that

1 (1) specifies

2 (A) the amount of the diversion payment and the needs it is  
3 intended to cover;

4 (B) the self-sufficiency services required to meet the  
5 family's immediate needs;

6 (2) provides that, during the three-month period beginning with the  
7 month in which the diversion payment was received, child support collected on behalf  
8 of a child whose needs were considered in determining the diversion payment shall be  
9 paid to the family; and

10 (3) provides that if the family reapplies [FOR ALASKA  
11 TEMPORARY ASSISTANCE PROGRAM ASSISTANCE] under AS 47.27.020  
12 during the three months beginning with the month in which the family received a  
13 diversion payment, the diversion payment shall be treated as unearned income,  
14 prorated over the three-month period, and deducted from any cash assistance that  
15 [ALASKA TEMPORARY ASSISTANCE PROGRAM BENEFIT] the family may be  
16 eligible for under the new application.

17 \* Sec. 36. AS 47.27.026(e) is amended to read:

18 (c) A family that receives a diversion payment may not receive another  
19 diversion payment before the 12th month following the month in which it last received  
20 a diversion payment. A family may not receive more than four diversion  
21 payments.

22 \* Sec. 37. AS 47.27.027 is amended to read:

23 **Sec. 47.27.027. Assistance to minors.** (a) If an applicant under  
24 AS 47.27.020 is not married, is under the age of 18, and has not been previously  
25 emancipated under AS 09.55.590, the applicant must

26 (1) live in a home maintained by the applicant's parent, legal guardian,  
27 or other adult relative, unless the applicant establishes that there is good cause, as  
28 established by the department in regulation, to waive this requirement; if the  
29 department waives this requirement, the applicant must live in an approved, adult-  
30 supervised, supportive living environment;

31 (2) agree that cash assistance [FOR BASIC LIVING EXPENSES] on

1       behalf of the applicant's family may be paid to the applicant's parent, legal guardian, or  
 2       other adult relative, or, if applicable, to the adult head of the adult-supervised,  
 3       supportive living environment in which the applicant resides; and

4               (3) maintain attendance in a secondary school or other appropriate  
 5       training program unless the applicant has a high school diploma or general equivalent  
 6       diploma.

7               (b) The department shall reduce the cash assistance for which an assistance unit  
 8       is otherwise eligible under this chapter if a minor parent in the assistance unit  
 9       fails, without good cause, to meet standards of adequate levels of school attendance, as  
 10      defined in regulations of the department. The reduction under this subsection shall be  
 11      achieved by disregarding the needs of the person who failed to meet the school  
 12      attendance standards. The person's needs shall be disregarded until the minor parent  
 13      complies.

14   \* **Sec. 38.** AS 47.27.030(a) is amended to read:

15               (a) A participant in the Alaska temporary assistance program shall cooperate  
 16       with the department, or its designee, to develop and sign a family self-sufficiency plan  
 17       that includes

18                       (1) the steps the family will take towards the self-sufficiency of the  
 19       family,

20                       (2) the self-sufficiency services the department will provide to assist  
 21       the family to attain self-sufficiency;

22                       (3) specific benchmarks to indicate the steps toward successful  
 23       completion of the family plan;

24                       (4) a statement that the family may be subject to [BENEFIT]  
 25       reductions in cash assistance or self-sufficiency services or other sanctions if the  
 26       family fails to comply with the family plan; and

27                       (5) a statement that describes the necessary conditions and the steps  
 28       that must be taken to renegotiate the terms of the family plan.

29   \* **Sec. 39.** AS 47.27.030(b) is amended to read:

30               (b) The family self-sufficiency plan must set a time period for the achievement  
 31       of self-sufficiency from cash assistance under the Alaska temporary assistance

1 program. Initially, that [THAT] time period may not provide for any more than a  
 2 total of 60 months of cash assistance under the Alaska temporary assistance program  
 3 even though the family may eventually be eligible for an exemption under  
 4 AS 47.27.015(a)(1). Unless the members of the family who are not dependent  
 5 children are all exempt under AS 47.27.035(b) - (d), the time period for receiving cash  
 6 assistance may not exceed a cumulative total of 24 months unless each nonexempt  
 7 person is in compliance with the work activity assignment made under AS 47.27.035.

8 \* **Sec. 40.** AS 47.27.030 is amended by adding a new subsection to read:

9 (d) The department may provide only self-sufficiency services to a family that  
 10 no longer qualifies for cash assistance due to employment, a family that is disqualified  
 11 from receiving cash assistance under AS 47.27.015(a)(1), (c), or (g), or a family that  
 12 qualifies for cash assistance but requests only self-sufficiency services. Self-  
 13 sufficiency services that are made available to a family under this subsection shall be  
 14 based on a determination of need established by the department in regulation. If a  
 15 family receives only self-sufficiency services, the department may waive the self-  
 16 sufficiency plan requirements specified in (a) and (b) of this section.

17 \* **Sec. 41.** AS 47.27.035(a) is amended to read:

18 (a) An Alaska temporary assistance program participant shall, after the  
 19 participant's family has received a cumulative total of 24 months of cash assistance or  
 20 sooner if assigned to do so by the department, participate in work activities as assigned  
 21 by the department or its designee in order for the family to continue to receive cash  
 22 assistance or self-sufficiency services from the department under the Alaska  
 23 temporary assistance program, unless the participant is exempt from the work  
 24 participation requirements under one or more of the exemptions set out in (b) - (d) of  
 25 this section.

26 \* **Sec. 42.** AS 47.27.040 is amended to read:

27 **Sec. 47.27.040. Assignment of support rights; cooperation with child**  
 28 **support enforcement agency.** (a) An Alaska temporary assistance program  
 29 applicant is considered to have assigned to the state, through the child support  
 30 enforcement agency of the Department of Revenue, all rights to accrued and  
 31 continuing child support, from all sources, that is due for the support of any

1 individuals in the family for whom support is sought. The assignment takes effect  
 2 upon a determination that the applicant's family is eligible for cash assistance under  
 3 this chapter. Except with respect to the amount of any unpaid support obligation  
 4 accrued under the assignment, the assignment terminates when the family ceases to  
 5 receive cash assistance under [BE A PARTICIPANT IN] the Alaska temporary  
 6 assistance program.

7 (b) An Alaska temporary assistance program participant shall cooperate with  
 8 the child support enforcement agency of the Department of Revenue in establishing  
 9 paternity or establishing, modifying, or enforcing a child support order requiring the  
 10 payment of support by the noncustodial parent for a dependent child for whom Alaska  
 11 temporary assistance program cash assistance is received. The child support  
 12 enforcement agency shall determine whether the participant is in good faith  
 13 compliance with the requirements of this subsection and shall inform the Department  
 14 of Health and Social Services of its determination. The Department of Health and  
 15 Social Services shall establish whether the participant has good cause for refusing to  
 16 cooperate.

17 (c) The department may distribute to an Alaska temporary assistance program  
 18 participant \$50 per month from a monthly child support payment, or the amount of the  
 19 child support payment if it is less than \$50, received by the child support enforcement  
 20 agency for the support of a child for whom Alaska temporary assistance program cash  
 21 assistance is paid.

22 \* Sec. 43. AS 47.27.045 is amended to read:

23 **Sec. 47.27.045. Alienation and attachment.** Cash assistance  
 24 [ASSISTANCE] granted under this chapter is inalienable by assignment or transfer  
 25 and is exempt from garnishment, levy, or execution as is provided in AS 09.38.

26 \* Sec. 44. AS 47.27.060 is amended to read:

27 **Sec. 47.27.060. Job development.** The department may establish cooperative  
 28 agreements with the Department of Labor and Workforce Development, Department  
 29 of Education and Early Development, and Department of Community and Economic  
 30 Development, and with other public or private sector organizations for the purpose of  
 31 developing job, training, and educational opportunities for families eligible for cash

1 assistance or self-sufficiency services under this chapter.

2 \* **Sec. 45.** AS 47.27.075 is amended to read:

3 **Sec. 47.27.075. Emergency account established.** There is established within  
4 the general fund the Alaska temporary assistance program emergency account. The  
5 account consists of appropriations that were made by the legislature from federal  
6 money available for cash assistance, diversion payments, and self-sufficiency  
7 services under this chapter, including lapsing money that was previously appropriated  
8 from federal money for the Alaska temporary assistance program, but that were not  
9 expended or obligated in the fiscal year for which they were appropriated.

10 \* **Sec. 46.** AS 47.27.080(a) is amended to read:

11 (a) An applicant or participant who receives a determination from the  
12 department that denies, limits, or modifies the cash assistance, diversion payment, or  
13 self-sufficiency services provided under this chapter may request a hearing before the  
14 department or a representative of the department appointed for that purpose. If a  
15 representative is appointed, the representative shall conduct the hearing under the  
16 regulations adopted by the department. The appeal is not subject to AS 44.62.330 -  
17 44.62.630.

18 \* **Sec. 47.** AS 47.27.085(a) is amended to read:

19 (a) Except as provided in (b) of this section, the [THE] department shall  
20 reduce the amount of cash assistance provided to the family of [PENALIZE] an  
21 Alaska temporary assistance program applicant or participant who, without good  
22 cause, fails to comply with a condition of the family self-sufficiency plan, [OR] who  
23 fails to participate in work activities required as a part of the Alaska temporary  
24 assistance program, or who fails to cooperate with the child support enforcement  
25 agency as required under AS 47.27.040. The reduction shall be [BY  
26 DISREGARDING THAT PERSON AS A MEMBER OF THE FAMILY FOR  
27 PURPOSES OF DETERMINING THE AMOUNT OF ASSISTANCE GIVEN TO  
28 THE FAMILY. THE PERIOD OF TIME DURING WHICH THE DEPARTMENT  
29 SHALL DISREGARD THE NONCOMPLYING PERSON FOR PURPOSES OF  
30 DETERMINING THE AMOUNT OF THE FAMILY'S ASSISTANCE IS ]

31 (1) 40 percent of the maximum cash assistance that would be

1 payable under AS 47.27.025 for a family of the same size, assuming the family  
 2 has no income counted for purposes of this chapter, until the date the department  
 3 determines that the family [PERSON] is in compliance under this subsection if the  
 4 family comes into compliance within the first four months after the date of the  
 5 department's finding of noncompliance [PERSON HAS NOT PREVIOUSLY  
 6 BEEN DISREGARDED] under this subsection; on the date the department  
 7 determines that the family is in compliance, the department shall begin to pay the  
 8 family the full amount of cash assistance for which the family is eligible;

9 (2) 75 percent of the maximum cash assistance that would be  
 10 payable under AS 47.27.025 for a family of the same size, assuming the family  
 11 has no income counted for purposes of this chapter, [THE LONGER OF SIX  
 12 MONTHS OR] until the date the department determines that the family  
 13 [PERSON] is in compliance under this subsection if the family comes into  
 14 compliance during the fifth, sixth, seventh, or eighth month after the date the  
 15 department initially determined that the family was not in compliance [PERSON  
 16 HAS PREVIOUSLY BEEN DISREGARDED] under [(1) OF] this subsection; on the  
 17 date the department determines that the family is in compliance, the department  
 18 shall begin to pay the family the full amount of cash assistance for which the  
 19 family is eligible;

20 (3) the full amount of the family's cash assistance if the  
 21 noncompliance under this subsection is not corrected within eight months after  
 22 the date of the department's initial finding of noncompliance under this  
 23 subsection; in order to receive cash assistance under this chapter, the  
 24 family shall reapply under AS 47.27.020 and satisfy all requirements applicable  
 25 to applicants under that section [LONGER OF 12 MONTHS OR UNTIL THE  
 26 PERSON IS IN COMPLIANCE UNDER THIS SUBSECTION IF THE PERSON  
 27 HAS PREVIOUSLY BEEN DISREGARDED UNDER (2) OF THIS SECTION].

28 \* Sec. 48. AS 47.27.085(b) is repealed and reenacted to read:

29 (b) Notwithstanding (a) of this section, the department may not reduce a  
 30 family's cash assistance under (a)(2) or (3) of this section unless there is, in the  
 31 family's case record, (1) documented evidence that the department has attempted to

1 visit the family's home after the imposition of a reduction under (a)(1) of this section  
 2 and (2) a written finding by the department that, considering the results of any home  
 3 visit attempted under (1) of this subsection and the availability of other services in the  
 4 community that are appropriate to the family's needs, the health, safety, and well-  
 5 being of the children in the family will not be significantly jeopardized by imposition  
 6 of a reduction under (a)(2) or (3) of this section. If the department does not reduce a  
 7 family's cash assistance based on the provisions of this subsection, the department  
 8 may manage the family's cash assistance on behalf of the family under regulations that  
 9 the department shall adopt concerning management of cash assistance under this  
 10 subsection.

11 \* Sec. 49. AS 47.27.085(c) is amended to read:

12 (c) An Alaska temporary assistance program applicant or participant who  
 13 receives cash assistance, a diversion payment, or self-sufficiency services when not  
 14 entitled to them under this chapter because the information provided by the applicant  
 15 or participant was inaccurate or incomplete is liable to the department for the value of  
 16 the cash assistance, diversion payment, and self-sufficiency services improperly  
 17 provided to the applicant or participant.

18 \* Sec. 50. AS 47.27.085(d) is amended to read:

19 (d) In a civil action brought by the state to recover the value of cash  
 20 assistance, a diversion payment, or self-sufficiency services improperly provided  
 21 under this chapter, the state may recover costs of investigation and prosecution of the  
 22 civil action, including attorney fees as determined under court rules.

23 \* Sec. 51. AS 47.27.085 is amended by adding a new subsection to read:

24 (e) The department shall adopt regulations necessary to implement this  
 25 section.

26 \* Sec. 52. AS 47.27.900(8) is amended to read:

27 (8) "self-sufficiency services" means work-related services,  
 28 community service work referrals, child care assistance, emergency assistance,  
 29 service vouchers, equipment vouchers, work stipends, transportation assistance,  
 30 wage subsidies, and other work supports and services determined by the department  
 31 in regulation to promote family self-sufficiency;

1 \* **Sec. 53.** AS 47.27.900 is amended by adding new paragraphs to read:

2 (10) "cash assistance" means assistance for basic living expenses  
3 provided under the Alaska temporary assistance program; "cash assistance" includes  
4 cash, vouchers, or third-party vendor payments; "cash assistance" does not include a  
5 diversion payment under AS 47.27.026 or self-sufficiency services;

6 (11) "diversion payment" means a diversion payment paid under  
7 AS 47.27.026.

8 \* **Sec. 54.** AS 47.27.015(I) and 47.27.900(1) are repealed.

9 \* **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 **TRANSITION: REGULATIONS.** Notwithstanding sec. 58 of this Act, the affected  
12 state agencies may proceed to adopt regulations necessary to implement the changes made by  
13 secs. 1 - 54 of this Act. The regulations take effect under AS 44.62 (Administrative  
14 Procedure Act), but not before the effective date of the statutory changes.

15 \* **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 **REVISOR'S INSTRUCTIONS.** The revisor of statutes is instructed to change the  
18 catchline of

19 (1) AS 47.27.020 from "Application and requirements for assistance" to  
20 "Application requirements";

21 (2) AS 47.27.025 from "Family assistance" to "Cash assistance";

22 (3) AS 47.27.030 from "Family self-sufficiency plan" to "Family self-  
23 sufficiency services."

24 \* **Sec. 57.** Section 55 of this Act takes effect immediately under AS 01.10.070(c).

25 \* **Sec. 58.** Except as provided in sec. 57 of this Act, this Act takes effect July 1, 2002.

**SB**

**294**

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 294  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title Adult Day Services Licensing BRU Central Administrative Services  
 Component Protection, Community Services  
 Sponsor SENATOR(S) ELLIS, Wilken Administration  
 Requester (S)HES Component No. 2083

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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>						
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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--Do not abbreviate)						
<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 (FY2002) cost: \_\_\_\_\_

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The Department would require no additional funding at this time.

Prepared by: Dwight Becker, Program Coordinator Phone 907-269-3674  
 Division Senior Services Date/Time 2/25/02  
 Approved by: Jim Duncan, Commissioner Date 2/26/2002  
 Agency Department of Administration

# ALASKA STATE LEGISLATURE

Senate Rules Committee

Senate Judiciary Committee

Department of Law  
Budget Subcommittee



## SENATOR JOHNNY ELLIS MINORITY LEADER

*While in Session*  
State Capitol, Rm. 9  
Juneau, AK 99801  
(907) 465-3704  
Fax: (907) 465-2529

*While in Anchorage*  
716 W. 4<sup>th</sup> Ave, Ste. 440  
Anchorage, AK 99501  
(907) 269-0169  
Fax: (907) 269-0172

### Sponsor Statement Senate Bill 294 "Adult Day Care Licensing"

The purpose of Senate Bill 294 is to introduce some controls and standards for adult day care licensing. Currently, there is no regulation of Adult Day Care programs in Alaska. Senate Bill would establish a licensing program for adult day care. There are currently 13 adult day care facilities in Alaska. Adult day services are reimbursed under the Medicaid waiver program, and some long term care insurance policies. With the growth projected in the Alaska senior population over the next several years, there is good reason to believe that private industry may wish to develop adult day programs in the state. There are new adult day care facilities projected to open, although they will not receive any grant funds from the state, so they will not be subject to any oversight.

Most adult day care facilities run 5 days a week from about 8 a.m. to 4 p.m., with some weekend activities. These facilities allow older adults that are frail and/or possess a form of dementia to stay at home longer and be near their families, thereby alleviating demand on residential care facilities.

The proposed legislation will provide a framework of safeguards for the vulnerable adults that participate in adult day programs. These safeguards include – detailed guidelines for the program and facilities that are needed such as: fire safety, DEC (Department of Environmental Conservation) kitchen, minimum training requirements, and background checks for the facility workers. A program plan will also be required. This ensures that there is a meaningful program of activities and a safe environment for the participants.

There is a zero fiscal note with this bill; the assisted living license staff in the Division of Senior Services can absorb this additional workload with existing staff. The statutory framework for the adult day facilities licensing would be similar to the statutory framework for child day care licensing.



Honorable Johnny Ellis  
Senate Minority Leader  
Alaska Capitol, Room 9  
Juneau, AK 99801-1182

March 8, 2002

RE: SB 294 SUPPORT

Dear Leader Ellis:

On behalf of the 112,000 members of AARP in Alaska, we would like to indicate support for your bill SB 294 co-authored by Senators Gary Wilken and Bettye Davis.

AARP recommends that states provide a variety of long term care services, including adult day care services. State government also has the responsibility for regulations and oversight of these services. SB 294 will establish appropriate licensing and regulation for adult day care service facilities in Alaska. SB294 builds upon state experience with other service delivery systems and will allow the Department of Administration appropriate responsibility for these facilities.

AARP appreciates your attention to this issue and would be pleased to be of assistance as the bill moves through the Committee process and on to the Governor's desk for signature.

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

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Marguerite Stetson".

Marguerite Stetson  
AARP Alaska  
Executive Council Member for Advocacy  
3009 Northwood Street  
Anchorage, AK 99517-1871  
907.245.5259 voice  
907.245.5279 fax  
[ffmas@aurora.uaf.edu](mailto:ffmas@aurora.uaf.edu)

cc: Senator Gary Wilken  
Senator Bettye Davis  
Marie Darlin  
Pat Luby

Letter of Support

**SB**

**295**

# Alaska State Legislature

SENATOR  
PETER KELLY

Mailing Address:  
119 N. Cushman, Suite 201  
Fairbanks, Alaska 99701  
Senator\_Pete\_Kelly@legis.state.ak.us  
(907) 456-8161




Senate

While in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-2327

Senate District P

## MEMORANDUM

To: Senator Lyda Green, Chair  
Senate Health, Education & Social Services Committee

From: Senator Pete Kelly, Co-Chair   
Senate Finance Committee

Date: February 28, 2002

RE: Hearing Request for SB 295  
"An Act relating to the disclosure of information regarding delinquent minors to certain licensing agencies; and providing for an effective date."

---

Please accept this memorandum as a request to schedule SB 259 for a hearing in the Senate Health, Education & Social Services Committee at your earliest convenience.

I have enclosed the following back-up information for your review and inclusion in bill packets:

- SB 295
- Sponsor Statement
- Fiscal Note

If you have any questions please contact Wendy in my office at extension 4747. Thank you for your consideration of this request.

# Alaska State Legislature

*Session:*  
State Capitol  
Juneau, AK 99801  
Phone: (907) 465-2327  
Fax: (907) 465-5241



*Interim:*  
119 N. Cushman  
Fairbanks, AK 99701  
Phone: (907) 456-161  
Fax: (907) 456-8163

Senator Pete Kelly  
District P

## SB295 Sponsor Statement

**“An Act relating to the disclosure of information regarding delinquent minors to certain licensing agencies; and providing for an effective date.”**

Both State and Federal laws currently require all child and adult care licensing authorities to review criminal histories of every individual, aged 16 and older, who is seeking either a care license, employment with a care provider, or residing in the home of a care provider seeking licensure.

Criminal history information for persons under 18 is not accessible through the Alaska Public Safety Information Network, but is available through the Division of Juvenile Justice (DJJ). Yet due to the language in the current statute, the division may release certain information for specific situations to only a few of the licensing agencies. The fact that an applicant may have a son living in the home who is a convicted child molester could be kept from a licensing agency because of the limitations on the division's authority to release that information.

This bill will give the Department of Health and Social Services clear authority to provide all child and adult care licensing agencies access to appropriate delinquency information. This will help facilitate the licensing of suitable individuals as well as help ensure quality of care and safety concerns are met for every client receiving services in a care facility or program.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 295  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 2/21/2002 3:24 pm Dept. Affected: Health & Social Services  
 Title: DISCLOSURE OF JUVENILE DELINQUENCY INFORMATION TO LICENSING AGENCIES BRU: Juvenile Justice  
 Component: Probation Services  
 Sponsor: KELLY  
 Requestor: SENATE (HES) Component Number: 2134

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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 ( 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--do not abbreviate)						
<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 (FY2002) cost: \_\_\_\_\_

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

While our administrative staff may have to compile information and transmit it to DEED, Senior Services, etc., we do not anticipate a significant fiscal impact with the passage of this bill.

Prepared by: Susan M. Taylor, Administrative Manager Phone 465-2212  
 Division: Juvenile Justice Date/Time 02/21/2002  
 Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 02/23/2002  
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

**SB**

**306**

COMMITTEE: SENATE HESS	SUBJECT: SB 306-PRESCRIPTION DRUG ASSISTANCE TASK FORCE
DATE: APRIL 24, 2002	



*offprint*  
*Jim Martin*

## PLEASE SIGN IN

NAME PLEASE PRINT	ADDRESS (MAILING & ZIP)	E-MAIL	REPRESENTING (No Acronyms)	TESTIFY Y/N
Rosalee T. Walker	1220 Glacier Ave. # 208	rosaleet@alaska.gov	President AARP	Y
Nancy Weller	PO Box 110660	nancy-weller@health.state.ak.us	Medical Assistance	Answer questions
Steve Ashman			Div. of Sr. Servis	Y

Member  
OPAG



March 18, 2002

Alaska Senate Committee on Health, Education and Human Services  
Alaska Senate Committee on Finance  
State Capital  
Juneau, AK 99801-1182

Dear Committee Members:

I am writing to strongly urge you to create a Taskforce to address the need to lower the cost of prescription drugs for all Alaskans without prescription drug insurance. The Center for Policy Alternatives has worked with more than twenty states to help develop model legislation that addresses this critical problem and we hope Alaska will join other states - including New Mexico, West Virginia, and Minnesota - that have taken action in 2002 to address this health crisis.

One in four Americans—70 million—do not have insurance covering prescription drugs. Medicare does not cover outpatient prescriptions, and older Americans desperately need these medicines. Because they have more medical concerns, seniors—representing only 12 percent of the population—consume one-third of all prescription drugs. More than 10 million children are also among the uninsured.

Drug manufacturers sell the exact same pharmaceuticals to different purchasers at widely varying prices. On average, uninsured Americans pay about twice as much as the federal government pays for the same drugs. Uninsured families are charged far more for prescriptions than their insured neighbors, even in the same pharmacy. Similarly, state Medicaid programs pay a price, fixed by federal law, which is 20 to 40 percent higher than the federal government pays. Drug manufacturers still make a healthy profit on the lowest prices they charge the federal government.

Unconscionably high prices for Cipro illustrate the unfairness of the current drug pricing system. A single 500 mg tablet of the antibiotic Cipro, used to fight anthrax and other dangerous bacteria, costs an uninsured American almost \$5 per pill—\$300 for a bottle of 60 pills. But under the federal government's "340B" program, public health facilities buy the same drug for about 43¢ per pill—only \$25.80 for a bottle of 60. The manufacturer, Bayer, makes a good profit because each pill only costs 10-20¢ to manufacture.

20 March 2002

Senator Bettye Davis  
Alaska State Legislature  
State Capitol, #504  
Juneau, AK 99801-1182

Re: SB 306

Dear Ms. Davis:

I am writing to express my support for SB 306 which would establish a prescription drug task force to make recommendations as to how to provide affordable prescription drugs for low-income senior Alaskans.

For 2 1/2 years, we at the Mabel T. Caverly Senior Center have aided low-income seniors through our DEAP program by giving them small grants in the amount of \$300.00 to reimburse themselves some of the cost of their prescription drugs. In that time, we have seen seniors needing aid for prescription bills varying in amounts from \$100.00 to \$2000.00 per month. None of these seniors were medicaid eligible.

The DEAP applications indicated that many seniors were filling only the prescriptions for which they had money. Or, they were skipping pills, halving pills, or in the case of numerous diabetics, not taking their insulin. This unnecessarily puts seniors' health at risk.

Therefore, I support any steps, any studies, or any procedures which may one day put an end to this sad tragedy.

And unfortunately, due to the size of the appropriation for the Human Services Matching Grant, it appears that even our small amount of assistance through the DEAP program will be reduced beginning July 1, 2002.

I commend you, Senator Davis, for introducing this legislation and shining some light on this very sad situation for our Alaskan pioneers.

Sincerely,

Sandra B. Camery  
Executive Director  
The Mabel T. Caverly Senior Center  
1111 E. 5<sup>th</sup> Ave.  
Anchorage, AK 99501  
907-276-1496

April 1, 2002

## Rising Drug Costs a Powerful Issue for National and State Politicians

By ROBIN TONER, Copyright 2002 The New York Times Company

WASHINGTON, March 31 — The soaring cost of prescription drugs has emerged as a potent domestic political issue, not only nationally, but also at the state level. Bills to deal with the cost of drugs are under consideration in 37 state legislatures. On Capitol Hill, legislative leaders in both parties are vying to portray themselves as the better protectors of older people and other consumers against rising pharmaceutical prices, with spending on outpatient prescription drugs up 17.1 percent last year.

In an election year in which no domestic issue has yet become the centerpiece of voter concern, some strategists say the issue, particularly its impact on older people, will loom large in this fall's campaign and maybe even longer.

"I believe the pharmaceutical industry will be a big political issue for the whole decade," said Robert J. Blendon, an expert at Harvard on public opinion and health. "There's a lot of new discoveries out there that are coming along, and many of them are dramatically more expensive than the current drugs."

Senator Byron L. Dorgan, Democrat of North Dakota, says he will hold hearings on the industry's pricing policies this year, and plans a new push to allow imports of cheaper prescription drugs from Canada. House Republicans are looking at ways to restrain the cost of Prescription medicines, like encouraging the use of lower-price generics, as they begin yet another effort to add a drug benefit to Medicare, an effort long stymied by its price. Elsewhere on Capitol Hill, a new coalition of employers, governors and organized labor, Business for Affordable Medicine, is pushing for an overhaul of the law governing pharmaceutical competition and generic drugs, arguing that the current law makes it too easy for the industry to stifle competition.

As for the states, "There's no question that state legislators are interested more interested than ever, at least in numerical terms in trying to lower the cost of prescription drugs," said Richard Cauchi, an analyst at the National Conference of State Legislatures.

In 37 states this year, legislators are considering bills that seek to reduce drug costs for their constituents through buying clubs, bulk purchasing by the state and an array of other measures. At the same time, governors and their Medicaid directors are scrambling to find ways to hold down drug costs in health programs for low-income and disabled people.

Gov. Howard Dean of Vermont, a Democrat who has helped organize other governors to push for Congressional action, said of the pharmaceutical industry, "I think they're in serious trouble from a P.R. point of view and in the Congress."

Mr. Dean, who is considering a run for the presidency, added, "I don't hate the pharmaceutical industry, but I frankly think there ought to be a Congressional investigation into their pricing practices."

Is the drug industry facing a political backlash, which the managed care industry experienced for much of the 90's? Gene Kimmelman, director of the Washington office of Consumers Union, argues that the industry's own direct advertising to consumers may be feeding a backlash.

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# Enough to Make You Sick:

*Prescription Drug Prices  
for the Elderly*

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A REPORT BY  
Families USA

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*Support for this report was generously provided by  
The Retirement Research Foundation*

*June 2001*

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# DRUG PRICES FOR THE ELDERLY

## INTRODUCTION

**R**ecent studies have found that three factors are contributing to the rapid increase in prescription drug expenditures: growing numbers of prescriptions per person; the entry of newer, more expensive drugs into the market that replace older, less expensive drugs; and price increases of existing drugs.<sup>1</sup> For the insurers and employers who pay the largest share of overall drug costs, the increased volume and continuous introduction of expensive new drugs may have a greater impact than increases in prices. But, for the millions of older Americans who do not have prescription drug coverage, and for millions of others who have very limited coverage, increases in drug prices have a profound impact. As this report demonstrates, these prices are increasing at rates that far exceed inflation.

For older Americans, the affordability of prescription drugs has long been a pressing concern. Outpatient prescription drug coverage is one of the last major benefits *not* included in Medicare, and the elderly are the last major *insured* consumer group without access to prescription drugs as a standard benefit. Although Medicare beneficiaries can purchase supplemental prescription drug coverage, that coverage is very expensive and very limited in scope, and although some older retirees have employer-sponsored prescription drug coverage, such coverage is on the decline.

As a result, Americans age 65 and older—who are by far the greatest consumers of prescription drugs—pay a much larger share of drug costs out of their own pockets than do those who are under 65. The elderly are also least likely to receive the benefit of price discounts for prescription drugs—discounts that are provided to bulk purchasers of drugs, including health plans covering younger populations. All of this means that price increases of prescription drugs have a greater impact on older Americans than on younger persons.

## DRUG PRICES FOR THE ELDERLY

One-sixth of these drugs (8 out of 50) rose less than the rate of inflation.

Three-quarters of these drugs (38 out of 50) rose 1.5 or more times the rate of inflation.

More than one-third of these drugs (18 out of 50) rose three or more times the rate of inflation.

Among the 50 drugs most frequently used by seniors, the following drugs rose most significantly in price over the one-year period from January 2000 to January 2001:

Synthroid (0.01 mg), marketed by Knoll and used as a synthetic thyroid agent, which rose by 22.6 percent (eight and one-half times the rate of inflation);

Alphagan, marketed by Allergan and used to treat glaucoma, which rose 22.5 percent (more than eight times the rate of inflation);

Glucophage, marketed by Bristol-Myers Squibb and used to treat diabetes, which rose 15.5 percent (nearly six times the rate of inflation);

Premarin, marketed by Wyeth-Ayerst and used for estrogen replacement, which rose 12.8 percent (nearly five times the rate of inflation); and

Demadex, a diuretic marketed by Roche, which rose 12.4 percent (more than four and one-half times the rate of inflation).

Nine more drugs experienced a price increase of three or more times the rate of inflation. These drugs were: Zocor, to lower cholesterol; Pepcid, a gastrointestinal agent; Cozaar, an angiotensin II inhibitor; Claritin, an anti-histamine; Paxil, an antidepressant; Fosamax, for osteoporosis; Lipitor, to lower cholesterol; K-Dur 20, a potassium replacement; and Detrol, for treatment of overactive bladder.

Over the five-year period from January 1996 to January 2001, the prices of the prescription drugs most frequently used by older Americans rose, on average, 22.2 percent. This increase was nearly twice the rate of inflation, which was 12.4 percent over that period. (See Table 2.)

## DRUG PRICES FOR THE ELDERLY

Prilosec, a gastrointestinal agent marketed by Astra Zeneca, has an average annual cost of \$1,511;

Prevacid, a gastrointestinal agent marketed by TAP Pharmaceuticals, has an average annual cost of \$1,459;

Plavix, an anti-platelet agent marketed by Bristol-Myers Squibb, has an average annual cost of \$1,232; and

Lipitor (20 mg), marketed by Parke-Davis and used as a lipid-lowering agent, has an average annual cost of \$1,148.

### Generic Drugs

Of the 50 drugs used most frequently by seniors, 10 are generic drugs, while the remaining 40 are brand name drugs. Price increases among generic drugs most frequently used by seniors are growing slower than the rate of inflation. (See Table 1.)

Of these 10 generic drugs, 7 did not increase in price in the period from January 2000 to January 2001.

Three of the 10 drugs rose nearly two times the rate of inflation during this period.

Of the 10 generic drugs, 8 were on the market for the five-year period from January 1996 to January 2001. (See Table 2.)

Half of these (four of eight) did not rise in price or rose at a rate slower than inflation;

Two of the eight rose slightly faster than the rate of inflation; and

Two drugs, both different dosage levels of furosemide, rose from 11 to 13 times the rate of inflation.

Among these 10 generic drugs, the annual cost of treatment as of January 2001 (see Table 3) is as follows:

furosemide (40 mg), a diuretic marketed by Mylan, has an average annual cost of \$59;

atenolol, a beta blocker marketed by Geneva, has an average annual cost of \$256;

## DRUG PRICES FOR THE ELDERLY

Of the 16 drugs on the market for the 10-year period between January 1991 and January 2001, those with the most significant increases in price were:

furosemide (40 mg), which increased 365.7 percent (more than 12 times the rate of inflation);

Synthroid (0.05 mg), which increased 136 percent (four and one-half times the rate of inflation);

Lanoxin (both dosages), which increased 126.8 percent (more than four times the rate of inflation);

Premarin, which increased 108.7 percent (nearly four times the rate of inflation); and

K-Dur 20, which increased 99.3 percent (more than three times the rate of inflation).

### NOTES TO TABLES

Drug names that are capitalized are brand names. The drugs that are not capitalized are generic, with the exception of APAP/propoxphene, which is a generic.

The following are abbreviations used in the tables and the explanations of each:

mg	milligram, which is 1/1,000th of a gram
mg/ac	milligrams per actuation (spray)
mcg	microgram, which is 1/1-millionth of a gram
meq	milliequivalent, an alternate form of measurement
IU	International Unit, a measurement of biological activity
IU/ac	International Units per actuation (spray)
sol	solution
inj	injection
tab	tablet
tab cr	controlled release tablet
tab er	extended release tablet
cap	capsule
cap cr	controlled release capsule
ophth sol	ophthalmologic solution

# DRUG PRICES FOR THE ELDERLY

Table 2

## Cumulative Price Changes of the Top 50 Drugs (by Number of Claims) Used by the Elderly<sup>a</sup>

Rank by # of Claims	Brand Name/Drug	Strength	Dose Form	Therapeutic Category	Number of Price Changes 1996-2001	Cumulative Changes 1996-2001	Multiple of CPI 1996-2001
1	Pilosec	20 mg	cap cr	Gastrointestinal Agents	4	14.0%	1.1
2	Norvasc	5 mg	tab	Calcium Channel Blocker	5	15.5%	1.2
3	K-Dur 20	20 meq	tab cr	Potassium Replacement	8	37.9%	3.0
4	Lanoxin	b 0.125 mg	tab	Cardiac Glycoside	6	80.5%	6.5
5	Lipitor	10 mg	tab	Lipid-Lowering Agent	2	nm	nm
6	Celebrex	200 mg	cap	Anti-inflammatory/Analgesic	2	nm	nm
7	furosemide	b 40 mg	tab	Loop Diuretic	7	158.7%	12.8
8	Fosamax	10 mg	tab	Osteoporosis Treatment	7	32.2%	2.6
9	Glucophage	500 mg	tab	Oral Antidiabetic Agent	7	61.2%	4.9
10	Plovix	75 mg	tab	Anti-platelet Agent	2	nm	nm
11	Prevacid	30 mg	cap cr	Gastrointestinal Agents	6	16.8%	1.4
12	Zocor	20 mg	tab	Lipid-Lowering Agent	4	17.6%	1.4
13	Xalatan	0.01 %	sol	Glaucoma Treatment	4	nm	nm
14	Pepcid	20 mg	tab	Gastrointestinal Agents	6	25.5%	2.0
15	Lanoxin	b 0.25 mg	tab	Cardiac Glycoside	6	80.5%	6.5
16	Norvasc	10 mg	tab	Calcium Channel Blocker	2	3.0%	0.2
17	Synthroid	b 0.1 mg	tab	Synthetic Thyroid Agent	9	66.5%	5.4
18	Vioux	25 mg	tab	Anti-inflammatory/Analgesic	1	nm	nm
19	Synthroid	b 0.05 mg	tab	Synthetic Thyroid Agent	9	67.1%	5.4
20	isosorbide mononitrate	b 60 mg	tab er	Anti-Anginal Agent	0	nm	nm
21	Premarin	0.625 mg	tab	Estrogen Replacement	9	53.1%	4.3
22	Lipitor	20 mg	tab	Lipid-Lowering Agent	2	nm	nm
23	Toprol XL	50 mg	tab	Beta Blocker	7	29.6%	2.4
24	isosorbide mononitrate	b 30 mg	tab er	Anti-Anginal Agent	0	nm	nm
25	Cezaar	50 mg	tab	Angiotensin II Inhibitor	6	23.9%	1.9
26	Miacalcin	200 IU/ac	spray	Calcitonin Replacement	6	nm	nm
27	Zoloft	50 mg	tab	Antidepressant	5	15.5%	1.2
28	metoprolol	b 50 mg	tab	Beta Blocker	0	0.0%	0.0
29	Synthroid	b 0.08 mg	tab	Synthetic Thyroid Agent	9	66.6%	5.4
30	Zocor	10 mg	tab	Lipid-Lowering Agent	5	22.2%	1.8
31	atenolol	b 25 mg	tab	Beta Blocker	2	-0.1%	0.0
32	Detrol	2 mg	tab	Oversensitive Bladder Treatment	3	nm	nm
33	Zestril	b 10 mg	tab	ACE Inhibitor	5	18.7%	1.5
34	Humulin N	b 100 IU	inj	Insulin Anti-Diabetic Agent	6	33.7%	2.7
35	Celebrex	100 mg	cap	Anti-inflammatory/Analgesic	2	nm	nm
36	furosemide	b 20 mg	tab	Loop Diuretic	7	136.4%	11.0
37	Claritin	10 mg	tab	Non-sedating Antihistamine	9	26.1%	2.1
38	Pravachol	20 mg	tab	Lipid-Lowering Agent	5	35.0%	2.8
39	Alphagan	0.2 %	ophth sol	Treatment of Glaucoma	6	nm	nm
40	Glucotrol XL	10 mg	tab	Oral Antidiabetic Agent	5	15.5%	1.2
41	Combivent	1 mg	aer	Respiratory Agent	5	nm	nm
42	Paxil	20 mg	tab	Antidepressant	7	28.2%	2.3
43	Evista	60 mg	tab	Osteoporosis Treatment	4	nm	nm
44	Vasotec	b 5 mg	tab	ACE Inhibitor	5	19.4%	1.6
45	atenolol	b 50 mg	tab	Beta Blocker	3	3.0%	0.2
46	metoprolol	b 50 mg	tab	Beta Blocker	6	13.6%	1.1
47	APAP/ propoxyphene	b 650 mg	tab	Opiate Agonist	2	15.4%	1.2
48	albuterol	b 90 mcg	aerosol	Respiratory Agent	0	0.0%	0.0
49	Demadex	20 mg	tab	Loop Diuretic	8	27.3%	2.2
50	Zestril	b 20 mg	tab	ACE Inhibitor	4	18.7%	1.5
<b>Top 50 Drugs, Average Weighted by Sales<sup>c</sup></b>					<b>4.8</b>	<b>22.2%</b>	<b>1.8</b>
<b>CPI - All Items less Energy, Annual Percent Change</b>						<b>12.4%</b>	

nm Not marketed during part or all of the period indicated.

<sup>a</sup> Based on price as of January 15 for each year reported. Drugs are listed in descending order of claims.

<sup>b</sup> Generic or co-marketed versions of this drug product are available.

<sup>c</sup> The weighted average was calculated based on 2000 expenditures for each drug in the Pennsylvania PACE program.

SOURCE: Compiled by PRIME Institute, University of Minnesota for Families USA. Based on data from the Pennsylvania Pharmaceutical Assistance Contract for the Elderly (PACE) and data found in Price-Check PC, published by MediSpan (First Databank, Indianapolis), April 2001.

# DRUG PRICES FOR THE ELDERLY

Table 4

**Cumulative Price Changes of the Top 50 Drugs (by Number of Prescriptions) Used by the Elderly\***

Rank by # of Claims	Brand Name	Strength	Dose Form	NDA Approval Date	Therapeutic Category	Cumulative Change 1991-2001	Multiple of CPI 1991-2001
1	Prilosec	20 mg	cap cr	Sep-89	Gastrointestinal Agents	28.7%	1.0
2	Norvasc	5 mg	tab	Jul-92	Calcium Channel Blocker	nm	nm
3	K-Dur 20	20 meq	tab cr	Jun-86	Potassium Replacement	99.3%	3.3
4	Lanoxin b	0.125 mg	tab	Aug-67	Cardiac Glycoside	126.8%	4.2
5	Lipitor	10 mg	tab	Dec-96	Lipid-Lowering Agent	nm	nm
6	Celebrax	200 mg	cap	Dec-98	Anti-inflammatory/Analgesic	nm	nm
7	furosemide b	40 mg	tab	Aug-81	Loop Diuretic	365.7%	12.2
8	Fosamax	10 mg	tab	Sep-95	Osteoporosis Treatment	nm	nm
9	Glucophage	500 mg	tab	Mar-95	Oral Antidiabetic Agent	nm	nm
10	Plavix	75 mg	tab	Nov-97	Anti-platelet Agent	nm	nm
11	Prevacid	30 mg	cap cr	May-95	Gastrointestinal Agents	nm	nm
12	Zocor	20 mg	tab	Dec-91	Lipid-Lowering Agent	nm	nm
13	Xalatan	0.005 %	sol	Jun-96	Glaucoma Treatment	nm	nm
14	Pepcid	20 mg	tab	Oct-86	Gastrointestinal Agents	58.8%	2.0
15	Lanoxin b	0.25 mg	tab	Aug-67	Cardiac Glycoside	126.8%	4.2
16	Norvasc	10 mg	tab	Jul-92	Calcium Channel Blocker	nm	nm
17	Synthroid b	0.1 mg	tab	Dec-63	Synthetic Thyroid Agent	133.3%	4.4
18	Vioxx	25 mg	tab	May-99	Anti-inflammatory/Analgesic	nm	nm
19	Synthroid b	0.05 mg	tab	Dec-63	Synthetic Thyroid Agent	136.0%	4.5
20	isosorbide b mononitrate	60 mg	tab er	Sep-98	Anti-Anginal Agent	nm	nm
21	Premarin	0.625 mg	tab	May-64	Estrogen Replacement	108.7%	3.6
22	Lipitor	20 mg	tab	Dec-96	Lipid-Lowering Agent	nm	nm
23	Toprol XL	50 mg	tab	Jan-92	Beta Blocker	nm	nm
24	isosorbide b mononitrate	30 mg	tab er	Sep-98	Anti-Anginal Agent	nm	nm
25	Cozaar	50 mg	tab	Apr-95	Angiotensin II Inhibitor	nm	nm
26	Miacalcin	200 IU/oc	spray	Aug-95	Calcitonin Replacement	nm	nm
27	Zolaft	50 mg	tab	Dec-91	Aniidepressant	nm	nm
28	metoprolol b	50 mg	tab	Jan-95	Beta Blocker	nm	nm
29	Synthroid b	0.075 mg	tab	Dec-63	Synthetic Thyroid Agent	134.7%	4.5
30	Zocor	10 mg	tab	Dec-91	Lipid Lowering Agent	nm	nm
31	atenolol b	25 mg	tab	Sep-91	Beta Blocker	nm	nm
32	Detrol	2 mg	tab	Mar-98	Overactive Bladder Treatment	nm	nm
33	Zestril b	10 mg	tab	Dec-87	ACE Inhibitor	33.6%	1.1
34	Humulin N b	100 IU	inj	Oct-82	Insulin Anti-Diabetic Agent	61.1%	2.0
35	Celebrax	100 mg	cap	Dec-98	Anti-inflammatory/Analgesic	nm	nm
36	furosemide b	20 mg	tab	Aug-81	Loop Diuretic	338.7%	11.3
37	Claritin	10 mg	tab	Apr-93	Non-sedating Antihistamine	nm	nm
38	Pravachol	20 mg	tab	Oct-91	Lipid-Lowering Agent	nm	nm
39	Alphagon	0.2 %	ophth sol	Sep-96	Treatment of Glaucoma	nm	nm
40	Glucotrol XL	10 mg	tab	Apr-94	Oral Antidiabetic Agent	nm	nm
41	Combivent	1 mg	aer	Oct-96	Respiratory Agent	nm	nm
42	Paxil	20 mg	tab	Dec-92	Aniidepressant	nm	nm
43	Evista	60 mg	tab	Dec-97	Osteoporosis Treatment	nm	nm
44	Vasotec b	5 mg	tab	Dec-85	ACE Inhibitor	51.7%	1.7
45	atenolol b	50 mg	tab	Sep-91	Beta Blocker	nm	nm
46	metoprolol b	50 mg	tab	Dec-93	Beta Blocker	nm	nm
47	APAP/propoxyphene	650 mg	tab	Apr-80	Opiate Agonist	80.1%	2.7
48	albuterol b	90 mcg	aerosol	Dec-95	Respiratory Agent	nm	nm
49	Demadex	20 mg	tab	Aug-93	Loop Diuretic	nm	nm
50	Zestril b	20 mg	tab	Dec-87	ACE Inhibitor	33.1%	1.1
CPI - All Items less energy, Annual Percent Change						30.6%	

nm Not marketed during part or all of the period indicated.

\* Based on price as of January 15 for each year reported. Drugs are listed in descending order of claims.

\* Generic or co-marketed versions of this drug product are available.

SOURCE: Compiled by PRIME Institute, University of Minnesota for Families USA. Based on data from the Pennsylvania Pharmaceutical Assistance Contract for the Elderly (PACE) and data found in Price-Check PC, published by MediSpan (First Databank, Indianapolis), April 2001.

## DISCUSSION

As the population that needs drugs most but is least likely to have drug coverage, seniors are most directly affected by rising drug prices. The steady escalation in these costs puts seniors at risk of being unable to obtain the prescription drugs they need to maintain their health. Although seniors represent just 13 percent of the total population, they account for 34 percent of all prescriptions dispensed and 42 percent of all prescription drug spending.<sup>4</sup>

The prices for prescription drugs used by older Americans continue to rise faster than the rate of inflation. In the past year, prices for the 50 drugs most commonly used by seniors rose by more than twice the rate of inflation. This is not a new trend. As our data show, throughout the 1990s the prices for prescription drugs most frequently used by seniors have risen faster than inflation. Results from previous Families USA studies also found that drug prices for the top 50 drugs used by older Americans consistently rose faster than inflation.<sup>5</sup>

For seniors—many of whom live on fixed incomes—prescription drugs have become increasingly unaffordable as prices continue to rise. One-third of seniors have no insurance coverage for prescription drugs throughout the year, and nearly half (47 percent) lack coverage for at least part of the year.<sup>6</sup> Whether lacking prescription drug coverage for the full year or some part of a year, paying the full cost for prescription drugs can be a tremendous financial burden.

Seniors without coverage are less likely to get the drugs they need. In fact, the gap in access to prescription drugs for seniors who have coverage compared to those who do not have coverage is growing. Seniors with prescription drug coverage are getting more prescriptions, while those without coverage are getting fewer prescription drugs.<sup>7</sup>

### Drugs with Fastest-Growing Prices

While prices for the 50 drugs most frequently used by seniors continue to rise faster than inflation, prices for several drugs are rising at rates that far exceed the average. Seniors may be hit especially hard if they rely on these drugs.

## DRUG PRICES FOR THE ELDERLY

Pfizer's total spending on research and development.<sup>10</sup> During this same period, from January 2000 to January 2001, the price of Lipitor increased more than three times the rate of inflation.

### Generic Drugs

Of the 50 most frequently prescribed drugs for seniors, the majority (40) are brand name drugs. Only 10 out of 50 are generic drugs. Generic drugs share the same active ingredient as the brand name drug, but because the brand name drug is no longer patent-protected, it can be produced by multiple companies, creating competition within that category of drug. As a result, generic drugs are substantially less expensive than their brand name counterparts. In fact, generic drugs are about half the price of brand name drugs in the first year after entering the market.<sup>11</sup> Among the generic drugs on this list, the annual costs range from \$52 for the diuretic furesomide (20 mg) to \$444 for the pain reliever APAP/propoxyphene (650 mg).

Of the 50 most commonly prescribed drugs for seniors, prices for generics are among the ones growing most slowly. Furesomide and metoprolol (marketed by Mylan) were the only generic drugs that had any increase in price from January 2000 to January 2001. Both dosages of furesomide increased roughly 5 percent, or nearly two times the rate of inflation. Metoprolol increased 4.9 percent, or nearly two times the rate of inflation. Even with these rapid increases in price, the annual cost of furesomide (40 mg) is only \$59 and metoprolol is only \$405, considerably less than the average cost of the 50 drugs. All other generics on the list had no price increase during this one-year period.

### Frequent Price Increases

For seniors who lack coverage for prescription drugs and who generally only receive a cost-of-living increase at the beginning of each year, frequent price increases make affording their prescription drugs difficult. Three-quarters (27 out of 36) of the drugs on the market during the last five years had, on average, at least one increase in price per year. Prices for Premarin, Claritin, and Synthroid increased nine times, or an average of nearly two times per year. Demadex and K-Dur 20 increased in price eight times during this five-year period.

## ENDNOTES

<sup>1</sup> Stanley S. Wallach, et al., *Sources of Growth in Pharmaceutical Expenditures*. Brandeis University Schneider Institute for Health Policy, May 2000. Available at ([www.RxHealthValue.org](http://www.RxHealthValue.org)).

<sup>2</sup> Families USA, *Still Rising: Drug Price Increases for Seniors, 1999-2000* (Washington: Families USA, April 2000); and Families USA, *Hard to Swallow: Rising Drug Prices for America's Seniors* (Washington: Families USA, November 1999).

<sup>3</sup> The data on average drug price increases used in this report weight drug price increases by sales. The average drug price increases reported take into account the market share of each of the 50 top-selling drugs. This methodology is often used by industry sources.

<sup>4</sup> Families USA, *Cost Overdose: Growth in Drug Spending for the Elderly, 1992-2010* (Washington: Families USA, July 2000).

<sup>5</sup> Families USA, *Still Rising and Hard to Swallow*, op. cit.

<sup>6</sup> David Gross and Normandy Brangan, *Medicare Beneficiaries and Prescription Drug Coverage: Gaps and Barriers* (Washington: AARP Public Policy Institute, June 1999); and Bruce Stuart, et al., *Prescription Drugs for Medicare Beneficiaries: Coverage and Health Status Matter* (New York: The Commonwealth Fund, February 2000).

<sup>7</sup> John A. Poisal and Lauren Murray, "Growing Differences Between Medicare Beneficiaries With and Without Drug Coverage," *Health Affairs* 20, 3 March/April 2001: 74-85.

<sup>8</sup> Calculations are based on PACE data and are available upon request from Families USA.

<sup>9</sup> National Institute for Health Care Management, *Prescription Drugs and Mass Media Advertising*, Research Brief (Washington: NIHCM Foundation, September 2000).

<sup>10</sup> Pfizer, Inc., *2000 Annual Report* (New York: Pfizer Inc., 2001).

<sup>11</sup> Congressional Budget Office, *How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry* (Washington: Congressional Budget Office, July 1998).

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

# DRUG PRICES FOR THE ELDERLY

## ENDNOTES

<sup>1</sup> Stanley S. Wallach, et al., *Sources of Growth in Pharmaceutical Expenditures*. Brandeis University Schneider Institute for Health Policy, May 2000. Available at ([www.RxHealthValue.org](http://www.RxHealthValue.org)).

<sup>2</sup> Families USA, *Still Rising: Drug Price Increases for Seniors, 1999-2000* (Washington: Families USA, April 2000); and Families USA, *Hard to Swallow: Rising Drug Prices for America's Seniors* (Washington: Families USA, November 1999).

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<sup>4</sup> Families USA, *Cost Overdose: Growth in Drug Spending for the Elderly, 1992-2010* (Washington: Families USA, July 2000).

<sup>5</sup> Families USA, *Still Rising and Hard to Swallow*, op. cit.

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<sup>10</sup> Pfizer, Inc., *2000 Annual Report* (New York: Pfizer Inc., 2001).

<sup>11</sup> Congressional Budget Office, *How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry* (Washington: Congressional Budget Office, July 1998).

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Senator Bettye Davis@legis.state.ak.us  
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## Senator Bettye Davis

Senate Bill SB 306

" An Act establishing the Prescription Drug Assistance Task Force; and providing for an effective date."

### Sponsor Statement

---

***The NCSL reports spending on outpatient drugs rose 18.8% from 1999 to 2000. In the last decade the average number of prescription per seniors per year has expanded from 19.6 to 28.6. Since 1992 the average cost of prescription drugs for seniors has gone up more than 48%.***

***In response to this trend, at least 40 states have considered enacting pharmaceutical assistance legislation, 31 states have actually instituted some form of program and 44 states are currently considering drug subsidy legislation.***

***According to the AARP, the annual growth rate for Medicaid spending on medications rose 23.4% in Alaska from 1996 to 1998 and a third of Alaska's seniors have no prescription drug coverage and must pay drug costs out-of-pocket.***

***SB 306 creates a Task Force to study prescription drug assistance programs currently in existence or under consideration around the country on both the state and national level. It will also review current and new Medicaid prescription drug initiatives for using drug rebates, discounts or pooling of discounts with other states with the intent of crafting a plan to help Senior Alaskan's meet the increasing burden of rising pharmaceutical costs.***

***The taskforce will be composed of seven members drawn from both the public and private sectors including a member recommended directly by senior organizations. The taskforce will report its findings and submit recommendations to the 23<sup>rd</sup> Legislature at the beginning of next session.***

***The report and recommendations will serve as a guide for crafting a comprehensive Senior Citizen Prescription Drug Assistance program that is both cost effective and meets the needs of Alaska's seniors.***

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 306  
(S) Publish Date: 3/22/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title: Establishment of Prescription Drug BRU: Central Administrative Services  
Assistance Task Force Component: Protection, Community Services  
Sponsor: Senator Davis Administration  
Requester: State Affairs Component No. 2083

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel	9.6	0.0	0.0	0.0	0.0	0.0
Contractual	10.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>19.6</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	19.6	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>19.6</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 (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill establishes a task force to investigate and review various issues related to the lack of prescription drug availability to low and moderate income senior citizens and make appropriate recommendations to the Governor and Legislature. This fiscal note assumes that members from state agencies assigned to the task force will cover the cost of their participation. This fiscal note covers the transportation, lodging and per diem for the four private sector members appointed to the task force. It assumes three required meetings and per diem for subsequent teleconference meetings. Contractual costs include advertising for public notice, teleconferencing costs, postage and printing and rent.

Prepared by: Steven P. Ashman, Director  
Division: Senior Services  
Approved by: Jim Duncan, Commissioner  
Agency: Department of Administration

Phone 907-269-3674  
Date/Time 3/20/02 1:46 PM  
Date 3/20/2002

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. SB 306 #1

ANALYSIS CONTINUATION

TRAVEL

Three Anchorage Meetings	
Three Private Sector Task Force Members	
Travel/Lodging/Per Diem	\$ 9,000
Private Sector Task Force Member	
Per Diem	300
Three Telephonic Meetings	
Per Diem	<u>300</u>
Total Travel	\$ 9,600

CONTRACTUAL

Public Notice of Meetings	\$ 5,000
Teleconferencing costs	2,500
Printing and Postage	1,000
Conference Room Rental	<u>1,500</u>
Total Contractual	\$10,000

Total Budget	\$19,600
--------------	----------

**SB**

**311**

COMMITTEE: SENATE HESS

SUBJECT: SB 311-STATE TRUST FUND MONIES

DATE: APRIL 8, 2002



# PLEASE SIGN IN

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Zach Warwick			Sen Ther...	Y
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DOR*

# Alaska State Legislature

SENATOR  
GENE THERRIAULT

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119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
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Senate

While in session  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797  
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Senate District Q

**Senate Bill 311:** "An act relating to the public school trust fund, the Alaska children's trust, and the Alaska heritage endowment fund; and providing for an effective date."

**Sponsor:** Senator Gene Therriault 

## Sponsor Statement

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Senate Bill 311 is designed to give greater flexibility to the Commissioner of Revenue in investing the principle of the Public Schools Trust Fund, the Alaska Children's Trust and the Alaska Heritage Endowment Fund.

When these funds were created, the statutes were written so that the money appropriated from the accounts could only come from the *Net Income Account* of the funds. This forced the Commissioner of Revenue to invest the money in low yield bonds and CD's that would return guaranteed dividends as net income. The current language creates no incentive for the Commissioner to invest in high yield equities because the increase in value of the equity is considered an increase in principle rather than net income.

Senate Bill 311 will allow appropriations from the funds to be based on the market value rather than net income. This change in statute will direct the Commissioner of Revenue to manage the funds as endowments and allow investments in higher yielding securities. The commissioner would be directed to invest the assets in a manner to yield at least a 5% real rate of return over time and report to the legislature annually the market value of the fund as well as the amount of money available for appropriation.

Passage of Senate Bill 311 would create a more productive group of funds that would more effectively fund programs throughout the state.



*Working in  
partnership with  
communities to  
prevent child  
abuse and  
neglect.*

## Memorandum

**To:** Senator Green, Chair, Senate HESS Committee  
**From:** Carol Brice, Chair, Alaska Children's Trust  
**Date:** March 27, 2002  
**Re:** Request to schedule SB 311

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Dear Senator Green,

The board of the Alaska Children's Trust would like to request a hearing of Senate Bill 311, "An Act relating to the public school trust fund, the Alaska children's trust, and the Alaska heritage endowment fund."

Due to the volatility of the stock market, the passage of this bill will allow the Department of Revenue to adjust each funds portfolio in order to optimize its investment structure. This will allow each fund to receive a less volatile payout, and in turn experience somewhat better growth.

# LEGAL SERVICES

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

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

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

## MEMORANDUM

March 27, 2002

**SUBJECT:** Certain public funds; sectional summary (SB 311)

**TO:** Senator Gene Therriault  
Attn: Zach Warwick

**FROM:** ~~Tamara Brandt Cook~~ TBC  
Director

This bill basically eliminates the distinction between income and principal in three public funds: the Alaska heritage endowment fund, the Alaska children's trust, and the public school trust fund. It switches from a system under which income was used from each fund to a formula under which five percent of an averaged market value of the fund is the basis for determining the level of appropriations from the fund each year.

**Sec. 1.** Deletes reference to the net income account and simply authorizes use of money appropriated from the Alaska heritage endowment fund. The net income account is repealed in bill sec. 23.

**Secs. 2 and 3.** Conforming changes to delete reference to the net income account.

**Sec. 4.** Eliminates a reference to "the principal of" in connection with the Alaska children's trust.

**Sec. 5.** Eliminates a reference to AS 37.14.170, repealed in bill sec. 23, which establishes criteria for the investment and management of the public school trust fund. A new statement of management criteria is added in bill sec. 7.

**Sec. 6.** Eliminates the distinction between principal and income of the public school trust fund. Adds to list of sources of fund assets appropriations to the fund and income earned on fund assets.

**Sec. 7.** See explanation, sec. 5.

**Sec. 8.** Adds a provision that, except for amounts dedicated under federal law, amounts deposited into the public school trust fund are not dedicated.

**Sec. 9.** Conforming change to delete reference to "principal and interest" with respect to the public school trust fund.

**Sec. 10.** Establishes formula under which the amount to be used from the public school trust fund is five percent of an averaged market value of the fund.

**Sec. 11.** Changes provisions dealing with management of the public school trust fund.

**Sec. 12.** Conforming change to eliminate distinction between principal and income with respect to the Alaska children's trust.

**Sec. 13.** Adds provisions relating to management of the trust as an endowment and providing that the trust is not dedicated.

**Secs. 14 and 15.** Changes provisions relating to management of the trust.

**Sec. 16.** Establishes formula under which the amount to be used from the trust each year is five percent of an averaged market value of the trust.

**Secs. 17 and 18.** Conforming changes and changes to provisions dealing with grants from the trust.

**Sec. 19.** Eliminates distinction between principal and income for the Alaska heritage endowment fund.

**Sec. 20.** Adds a new provision dealing with management of the fund as an endowment and providing that the fund is not dedicated.

**Sec. 21.** Changes provisions dealing with management of the endowment fund.

**Sec. 22.** Provides for use of five percent of an averaged market value of the endowment fund.

**Sec. 23.** Repeals provisions dealing with income of the funds dealt with in this bill and a provision dealing with investment of the public school trust fund.

**Sec. 24.** Requires the commissioner of revenue to get consent from persons who made contributions to the Alaska heritage endowment fund principal to account for those amounts under the provisions of this Act.

**Sec. 25.** Directs the revisor of statutes to change an article heading.

**Sec. 26.** Provides for an immediate effective date.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 311  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title State Trust Fund Monies BRU Revenue Operations  
 Component Treasury  
 Sponsor Senator Therriault  
 Requester Senate HESS Committee Component No. 121

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0	10.0	10.0	10.0	10.0	10.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
1066 Public School Trust	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)
1098 Children's Trust	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)
<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 (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 The Treasury Division currently allocates \$5,000 in custodial fees per account per year to each fund that it manages. The Public School and Children's Trust each have to maintain two accounts at the custodial bank because their statutes require that we keep the principal and income separate. Therefore, they are each allocated \$10,000 (\$5,000 per account) of the total custody fee that the division pays. By merging these two accounts (principal and income) under this legislation for these two funds, our overall custody fees will not be reduced. The custodial bank contract is a flat fee, regardless of the number of accounts. Because the new allocation to each of the endowments would be only \$5,000 (instead of \$10,000 under the existing system), the General Fund would be charged the unallocated portion of the custody fees. The reduction in fees paid by the two trusts in this legislation would result in an increase in fees charged to the General Fund.

Prepared by: Betty Martin, Comptroller Phone 907-465-2352  
 Division Treasury Date/Time 4/5/02 3:25 PM  
 Approved by: Larry Persily, Deputy Commissioner Date 4/5/2002  
 Agency Department of Revenue

22-LS1481\C  
Cook  
4/11/02

CS FOR SENATE BILL NO. 311( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to the public school trust fund, the Alaska children's trust, and the  
2 Alaska heritage endowment fund; and providing for an effective date."

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

4 \* Section 1. AS 14.57.100 is amended to read:

5           Sec. 14.57.100. Acquisitions. Subject to appropriation by the legislature  
6 under AS 37.14.530, the director may use money appropriated from [THE  
7 BALANCE OF THE NET INCOME ACCOUNT OF] the Alaska heritage endowment  
8 fund to acquire culturally or historically significant artifacts, natural history  
9 specimens, art objects, collections, and other items, materials, or properties that  
10 represent and document Alaska's land, natural history, and people for

11                           (1) the Alaska State Museum; and

12                           (2) the Sheldon Jackson Museum.

13 \* Sec. 2. AS 14.57.120 is amended to read:

14           Sec. 14.57.120. Criteria applicable to acquisitions from the fund. Subject

1 to approval given by the Museum Collections Advisory Committee under  
2 AS 14.57.050(b), the director may

3 (1) establish by contract the terms and conditions of custody,  
4 protection, conservation, and exhibition of an item acquired by the state museum if the  
5 item is acquired and custody of it is assigned to another institution;

6 (2) transfer ownership of an item to an institution having custody of an  
7 item acquired from [THE NET INCOME ACCOUNT OF] the fund if the director is  
8 satisfied that the institution will provide necessary care and protection of the item; or

9 (3) assign long-term custody of an item to an institution having  
10 custody of an item acquired from [THE NET INCOME ACCOUNT OF] the fund if  
11 the director is satisfied that the institution to which custody of the item is transferred  
12 will provide necessary care and protection of the item in accordance with a contract  
13 entered into under (1) of this section.

14 \* Sec. 3. AS 14.57.130 is amended to read:

15 Sec. 14.57.130. Disposition of acquired items. Subject to approval of the  
16 Museum Collections Advisory Committee under AS 14.57.050(b), the director may  
17 establish a deaccession policy under which the director may exchange or otherwise  
18 convey title to an item acquired from [THE NET INCOME ACCOUNT OF] the fund  
19 in accordance with generally accepted principles governing the disposal of these  
20 items.

21 \* Sec. 4. AS 28.10.421(d)(14) is amended to read:

22 (14) special request Alaska children's trust plates.....\$100  
23 plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required  
24 by this paragraph shall be collected only on the first issuance and the replacement of  
25 special request plates; the commissioner of administration shall separately account for  
26 the fees received under this paragraph that the department deposits in the general fund;  
27 notwithstanding (g) of this section, the annual estimated balance in the account that is  
28 in excess of the cost of issuing special request plates may be appropriated by the  
29 legislature into [THE PRINCIPAL OF] the Alaska children's trust under  
30 AS 37.14.200.

31 \* Sec. 5. 37.10.071(d) is amended to read:

1 (d) In exercising investment, custodial, or depository powers or duties under  
2 this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty  
3 that is assigned or delegated under this section, or under AS 14.25.180, AS 14.40.255,  
4 14.40.280(c), 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160, [37.14.170,]  
5 or AS 39.35.080. However, the fiduciary or the designee is not liable for a breach of a  
6 duty that has been delegated to another person if the delegation is prudent under the  
7 applicable standard of prudence set out in statute or if the duty is assigned by law to  
8 another person, except to the extent that the fiduciary or designee

9 (1) knowingly participates in, or knowingly undertakes to conceal, an  
10 act or omission of another person knowing that the act or omission is a breach of that  
11 person's duties under this chapter;

12 (2) by failure to comply with this section in the administration of  
13 specific responsibilities, enables another person to commit a breach of duty; or

14 (3) has knowledge of a breach of duty by another person, unless the  
15 fiduciary or designee makes reasonable efforts under the circumstances to remedy the  
16 breach.

17 \* Sec. 6. AS 37.14.110(b) is amended to read:

18 (b) The [PRINCIPAL OF THE] fund established in (a) of this section consists  
19 of

20 (1) the balance of the public school permanent fund on July 1, 1978;

21 [AND]

22 (2) sums transferred under AS 37.14.150;

23 (3) appropriations to the fund; and

24 (4) income earned on investments of fund assets.

25 \* Sec. 7. AS 37.14.110(c) is repealed and reenacted to read:

26 (c) The commissioner of revenue shall manage the fund as an endowment,  
27 with the goal that the purchasing power of the fund will not diminish over time  
28 without regard to additional contributions that may be made to the fund. The  
29 commissioner shall invest the assets of the fund in a manner likely to yield at least a  
30 five percent real rate of return over time.

31 \* Sec. 8. AS 37.14.110 is amended by adding a new subsection to read:

CS FOR SENATE BILL NO. 311( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the public school trust fund, the Alaska children's trust, and the  
2 Alaska heritage endowment fund; and providing for an effective date."

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

4 \* Section 1. AS 14.57.100 is amended to read:

5 Sec. 14.57.100. Acquisitions. Subject to appropriation by the legislature  
6 under AS 37.14.530, the director may use money appropriated from [THE  
7 BALANCE OF THE NET INCOME ACCOUNT OF] the Alaska heritage endowment  
8 fund to acquire culturally or historically significant artifacts, natural history  
9 specimens, art objects, collections, and other items, materials, or properties that  
10 represent and document Alaska's land, natural history, and people for

11 (1) the Alaska State Museum; and

12 (2) the Sheldon Jackson Museum.

13 \* Sec. 2. AS 14.57.120 is amended to read:

14 Sec. 14.57.120. Criteria applicable to acquisitions from the fund. Subject

1 to approval given by the Museum Collections Advisory Committee under  
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3 (1) establish by contract the terms and conditions of custody,  
4 protection, conservation, and exhibition of an item acquired by the state museum if the  
5 item is acquired and custody of it is assigned to another institution;

6 (2) transfer ownership of an item to an institution having custody of an  
7 item acquired from [THE NET INCOME ACCOUNT OF] the fund if the director is  
8 satisfied that the institution will provide necessary care and protection of the item; or

9 (3) assign long-term custody of an item to an institution having  
10 custody of an item acquired from [THE NET INCOME ACCOUNT OF] the fund if  
11 the director is satisfied that the institution to which custody of the item is transferred  
12 will provide necessary care and protection of the item in accordance with a contract  
13 entered into under (1) of this section.

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15 Sec. 14.57.130. Disposition of acquired items. Subject to approval of the  
16 Museum Collections Advisory Committee under AS 14.57.050(b), the director may  
17 establish a deaccession policy under which the director may exchange or otherwise  
18 convey title to an item acquired from [THE NET INCOME ACCOUNT OF] the fund  
19 in accordance with generally accepted principles governing the disposal of these  
20 items.

21 \* Sec. 4. AS 28.10.421(d)(14) is amended to read:

22 (14) special request Alaska children's trust plates.....\$100  
23 plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required  
24 by this paragraph shall be collected only on the first issuance and the replacement of  
25 special request plates; the commissioner of administration shall separately account for  
26 the fees received under this paragraph that the department deposits in the general fund;  
27 notwithstanding (g) of this section, the annual estimated balance in the account that is  
28 in excess of the cost of issuing special request plates may be appropriated by the  
29 legislature into [THE PRINCIPAL OF] the Alaska children's trust under  
30 AS 37.14.200.

31 \* Sec. 5. 37.10.071(d) is amended to read:

1 (d) In exercising investment, custodial, or depository powers or duties under  
2 this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty  
3 that is assigned or delegated under this section, or under AS 14.25.180, AS 14.40.255,  
4 14.40.280(c), 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160, [37.14.170,]  
5 or AS 39.35.080. However, the fiduciary or the designee is not liable for a breach of a  
6 duty that has been delegated to another person if the delegation is prudent under the  
7 applicable standard of prudence set out in statute or if the duty is assigned by law to  
8 another person, except to the extent that the fiduciary or designee

9 (1) knowingly participates in, or knowingly undertakes to conceal, an  
10 act or omission of another person knowing that the act or omission is a breach of that  
11 person's duties under this chapter;

12 (2) by failure to comply with this section in the administration of  
13 specific responsibilities, enables another person to commit a breach of duty; or

14 (3) has knowledge of a breach of duty by another person, unless the  
15 fiduciary or designee makes reasonable efforts under the circumstances to remedy the  
16 breach.

17 \* Sec. 6. AS 37.14.110(b) is amended to read:

18 (b) The [PRINCIPAL OF THE] fund established in (a) of this section consists  
19 of

20 (1) the balance of the public school permanent fund on July 1, 1978;

21 [AND]

22 (2) sums transferred under AS 37.14.150;

23 (3) appropriations to the fund; and

24 (4) income earned on investments of fund assets.

25 \* Sec. 7. AS 37.14.110(c) is repealed and reenacted to read:

26 (c) The commissioner of revenue shall manage the fund as an endowment,  
27 with the goal that the purchasing power of the fund will not diminish over time  
28 without regard to additional contributions that may be made to the fund. The  
29 commissioner shall invest the assets of the fund in a manner likely to yield at least a  
30 five percent real rate of return over time.

31 \* Sec. 8. AS 37.14.110 is amended by adding a new subsection to read:

1 (d) Except for amounts deposited as a continuance of the dedication for the  
2 support of public schools existing on April 24, 1956, relating to the Act of March 4,  
3 1915, 38 Stat. 1214, nothing in this section creates a dedicated fund with respect to  
4 amounts deposited in the fund.

5 \* Sec. 9. AS 37.14.130 is amended to read:

6 **Sec. 37.14.130. Powers and duties of board.** The board created in  
7 AS 37.14.120 has the following powers and duties:

8 (1) to hold regular meetings and special meetings considered  
9 necessary; and

10 (2) to have prepared an annual accounting of [THE PRINCIPAL AND  
11 INCOME OF] the fund established in AS 37.14.110 [; AND

12 (3) REPEALED].

13 \* Sec. 10. AS 37.14.140 is repealed and reenacted to read:

14 **Sec. 37.14.140. Use of fund.** As soon as practicable after July 1 of each year,  
15 the commissioner of revenue shall determine the average month-end market value of  
16 the fund for the immediately preceding three fiscal years. The commissioner shall  
17 identify five percent of that amount as available for appropriation by the legislature for  
18 support of the state public school program and for reimbursement of the administrative  
19 costs of the fund.

20 \* Sec. 11. AS 37.14.160 is repealed and reenacted to read:

21 **Sec. 37.14.160. Powers and duties of the commissioner of revenue.** In  
22 carrying out the investment duties under AS 37.14.110 - 37.14.170, the commissioner  
23 of revenue has the powers and duties set out in AS 37.10.071. The commissioner shall  
24 provide reports to the board established in AS 37.14.120 on the condition and  
25 investment performance of the fund.

26 \* Sec. 12. AS 37.14.200(b) is amended to read:

27 (b) The [PRINCIPAL OF THE] trust consists of

28 (1) legislative appropriations to the trust; [AND]

29 (2) gifts, bequests, and contributions of cash or other assets from a  
30 person; and

31 (3) income earned on investments of trust assets.

1 \* Sec. 13. AS 37.14.200 is amended by adding new subsections to read:

2 (d) The commissioner of revenue shall manage the trust as an endowment,  
3 with the goal that the purchasing power of the trust will not diminish over time  
4 without regard to additional contributions that may be made to the trust. The  
5 commissioner shall invest the assets of the trust in a manner likely to yield at least a  
6 five percent real rate of return over time.

7 (e) Nothing in this section creates a dedicated fund.

8 \* Sec. 14. AS 37.14.210 is repealed and reenacted to read:

9 **Sec. 37.14.210. Power and duties of the commissioner of revenue.** In  
10 carrying out the investment duties under AS 37.14.200 - 37.14.270, the commissioner  
11 of revenue has the powers and duties set out in AS 37.10.071. The commissioner shall  
12 provide reports to the board established in AS 37.14.225 on the condition and  
13 investment performance of the trust.

14 \* Sec. 15. AS 37.14.230 is amended to read:

15 **Sec. 37.14.230. Powers and duties of the board.** When acting as  
16 administrator of the trust, the board shall

17 (1) hold regular and special meetings it considers necessary; the board  
18 may hold meetings by teleconference;

19 (2) award grants from money appropriated from [THE NET  
20 INCOME OF] the trust to community-based [PROGRAMS AND] projects that the  
21 board finds will aid in the prevention of child abuse and neglect;

22 (3) monitor approved [PROGRAMS AND] projects for compliance  
23 with AS 37.14.200 - 37.14.270;

24 (4) before providing assistance to a [PROGRAM OR] project, approve  
25 written findings on the [PROGRAM OR] project that include a consideration of the  
26 means of measuring the effectiveness of the [PROGRAM OR] project;

27 (5) apply for [,] and use money appropriated from [NET INCOME  
28 FROM] the trust to obtain [,] private and federal grants for the prevention of child  
29 abuse and neglect;

30 (6) solicit contributions, gifts, and bequests to the trust;

31 (7) keep audio tape or other electronic recordings of each meeting of

1 the board to be made available on request; and

2 (8) submit to the governor and make available to the legislature by  
3 February 1 each year a report describing

4 (A) the child abuse and neglect prevention services that were  
5 provided by the [PROGRAMS AND] projects to which the board awarded  
6 grants; and

7 (B) the annual level of contributions, income, and expenses of  
8 the trust.

9 \* Sec. 16. AS 37.14.240 is repealed and reenacted to read:

10 **Sec. 37.14.240. Use of the trust.** (a) As soon as practicable after July 1 of  
11 each year, the commissioner of revenue shall determine the average month-end market  
12 value of the trust for the immediately preceding three fiscal years. The commissioner  
13 shall identify five percent of that amount as available for appropriation by the  
14 legislature for uses described in (b) of this section.

15 (b) Appropriations of the amount identified under (a) of this section may be  
16 used for the following purposes:

- 17 (1) the awarding of grants under AS 37.14.230 and 37.14.250;  
18 (2) obtaining private and federal grants for the trust;  
19 (3) soliciting contributions, gifts, and bequests for the trust;  
20 (4) reimbursement of the commissioner of revenue for the costs of  
21 managing the trust.

22 (c) In addition to the amount identified under (a) of this section, up to  
23 \$150,000 a year may be appropriated from the trust for the administrative expenses of  
24 the board relating to AS 37.14.200 - 37.14.270.

25 \* Sec. 17. AS 37.14.250 is amended to read:

26 **Sec. 37.14.250. Grants.** (a) In awarding grants from money appropriated  
27 from [THE NET INCOME OF] the trust, the board shall consider the proposals of a  
28 qualified applicant only after the applicant has submitted a detailed proposal in the  
29 form prescribed by the board. The board may not award a grant unless the board  
30 makes written findings that

- 31 (1) the proposed project, if successful, will help prevent child abuse or

1 neglect;

2 (2) the application for financial assistance contains an adequate plan  
3 for project implementation, including both financial feasibility and project  
4 effectiveness;

5 (3) the applicant demonstrates that sufficient technical expertise is  
6 available to accomplish the objectives of the proposed [PROGRAM OR] project; and

7 (4) the applicant has identified costs associated with and ancillary to  
8 the project, additional governmental costs, future obligations generated by the  
9 [PROGRAM OR] project, and necessary operating, maintenance, or other support  
10 costs for the life of the [PROGRAM OR] project.

11 (b) The board may establish, by regulation, other requirements for the award  
12 of grants under this section if necessary to carry out the purpose of the trust.

13 (c) The board shall award grants in amounts that

14 (1) are appropriate to the conditions of the applicant and the proposed  
15 [PROGRAM OR] project; and

16 (2) will make the most effective use of the money available.

17 (d) Only one grant may be [THE AMOUNT OF ALL GRANTS] awarded  
18 by the board to a recipient during a 12-month period, and the grant must be used  
19 for [TO] a single project within a municipality, a regional educational attendance  
20 area, or an unincorporated community that was entitled to receive state aid  
21 under AS 29.60.140 during the preceding fiscal year. A grant [OR PROGRAM]  
22 may not exceed \$50,000. The board may not finance more than 75 percent of the total  
23 cost of a [PROGRAM OR] project during each of the first two years for which the  
24 [PROGRAM OR] project receives a grant, 50 percent of the original total cost of the  
25 project during each of the third and fourth years, and 25 percent of the original total  
26 cost of the project during each year thereafter.

27 (e) A recipient of a grant may not use more than 10 percent of the grant for  
28 administration of the [PROGRAM OR] project.

29 (f) To the extent consistent with its [THE] terms or conditions [OF THE  
30 GRANT], a [PRIVATE OR FEDERAL] grant awarded to the board shall be  
31 distributed in the same manner as provided for grants under this section and

1 AS 37.14.260.

2 \* Sec. 18. AS 37.14.260 is amended to read:

3 Sec. 37.14.260. Eligibility for grants. The board may award a grant to an  
4 applicant if

5 (1) the applicant has submitted a proposal that is acceptable to the  
6 board; and

7 (2) [PROGRAMS AND] projects, if any, of the applicant that have  
8 previously received a grant from the board have complied with all requirements of that  
9 assistance and have performed with sufficient success or promise to warrant further  
10 financial assistance.

11 \* Sec. 19. AS 37.14.500 is amended to read:

12 Sec. 37.14.500. Alaska heritage endowment fund established. The Alaska  
13 heritage endowment fund is established as a separate endowment trust fund of the  
14 state. The [PRINCIPAL OF THE] fund consists of

15 (1) legislative appropriations to the fund; [AND]

16 (2) gifts, bequests, and contributions of cash or other assets made by a  
17 person who has specified their placement in the fund; and

18 (3) income earned on investments of fund assets [PRINCIPAL].

19 \* Sec. 20. AS 37.14.500 is amended by adding new subsections to read:

20 (b) The commissioner of revenue shall manage the fund as an endowment,  
21 with the goal that the purchasing power of the fund will not diminish over time  
22 without regard to additional contributions that may be made to the fund. If  
23 practicable, the commissioner shall invest the assets of the fund in a manner likely to  
24 yield at least a five percent real rate of return over time.

25 (c) Nothing in this section creates a dedicated fund.

26 \* Sec. 21. AS 37.14.520 is repealed and reenacted to read:

27 Sec. 37.14.520. Powers and duties of the commissioner of revenue. In  
28 carrying out the investment duties under AS 37.14.500 - 37.14.540, the commissioner  
29 of revenue has the powers and duties set out in AS 37.10.071. The commissioner shall  
30 provide reports to the Museum Collections Advisory Committee established in  
31 AS 14.57.020 on the condition and investment performance of the fund.

1 \* Sec. 22. AS 37.14.530 is repealed and reenacted to read:

2 Sec. 37.14.530. Use of fund. (a) As soon as practicable after July 1 of each  
3 year, the commissioner of revenue shall determine the average month-end market  
4 value of the fund for the immediately preceding three fiscal years. The commissioner  
5 shall identify five percent of that amount as available for appropriation by the  
6 legislature.

7 (b) Money appropriated from the fund may be used for the following  
8 purposes:

9 (1) reimbursement to the commissioner of revenue for the costs of  
10 managing the fund;

11 (2) the administrative expenses of the Museum Collection Advisory  
12 Committee relating to the acquisitions from the fund;

13 (3) acquisitions authorized by AS 14.57.100 - 14.57.199;

14 (4) reimbursement of other costs of administration of the fund.

15 \* Sec. 23. AS 14.57.199(3); AS 37.14.170, 37.14.200(c), and 37.14.510 are repealed.

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

18 TRANSITION. (a) On or after the effective date of this Act, the commissioner of  
19 revenue shall seek consent from persons who have made gifts, bequests, and contributions of  
20 cash or other assets under AS 37.14.500(2), as that statute read on the day before the effective  
21 date of this Act, to account for the gifts, bequests, and contributions of cash or other assets as  
22 provided for in this Act. If consent is not obtained, the commissioner of revenue shall  
23 continue to account for the gift, bequest, or contribution in accordance with sec. 5, ch. 82,  
24 SLA 1992.

25 (b) Money in the net income account of the Alaska heritage endowment fund  
26 (AS 37.14.510) on the effective date of this Act shall be retained in the Alaska heritage  
27 endowment fund (AS 37.14.500).

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

30 REVISOR OF STATUTES INSTRUCTIONS. The revisor of statutes shall change  
31 the heading of art. 2, AS 14.57, from "Use of Net Income of Alaska Heritage Endowment

1 Fund" to "Use of Appropriations from Alaska Heritage Endowment Fund."

2 \* Sec. 26. This Act takes effect immediately under AS 01.10.070(c).

**S B**

**3 2 5**

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 325  
 (S) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Civil Liability for Defibrillator Use BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Senator Therriault  
 Requester Senate HESS Committee Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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>						
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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--Do not abbreviate)						
<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 (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Prepared by: HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE Phone 465-6600  
 Division \_\_\_\_\_ Date/Time \_\_\_\_\_  
 Approved by: /s/ Senator Green, Chair Date 2/26/02  
 Agency \_\_\_\_\_

**Senate Bill 325, "An Act relating to civil liability for use of an automated external defibrillator; and providing for an effective date."**

**Sectional Analysis**

**Section 1**

**AS 09.65.087(a) Civil liability for use of an automated external defibrillator**

- Replaces 09.65.090(e)
- Removes civil liability for those who use or attempt to use an automated external defibrillator (AED) device on the victim of a perceived medical emergency.
- Removes existing requirement that users of the devices be "properly trained" in recognition of the ease of use of new devices.
- Maintains civil liability for failure to notify the appropriate emergency medical services agency.

**AS 09.65.087(b)**

- Removes civil liability resulting from use or attempted use of an AED for those who acquire or provide the AED.
- Maintains civil liability for those who acquire or provide an AED for failure to:
  - notify the local emergency medical response authority within 30 days following placement of the device
  - properly maintain and test the device
  - provide a means of notifying the local emergency medical response authority that an emergency exists
  - provide appropriate training to the employee or agent who used the device on a victim, except when:
    - the employee or agent is not someone who would have been reasonably expected to use the device
    - less than six months have elapsed between the time the person was hired and the occurrence of harm or, if the device was acquired after the person was hired, less than six months have elapsed between the acquisition and the occurrence of harm
    - the device is placed in a location where those who acquired it would not regularly have an employee or agent present
      - the device is placed in a location that provides public access to the device by persons who volunteer and are not employees or agents of those who acquired or provided the device
- Maintains the current definition of "appropriate training" as having completed an AED training course from the American Heart Association, the American Red Cross, or another AED training course approved by the Department of Health and Social Services.

**Section 2**

Deletes AS 09.65.090(e) and (f)

**SITE: ANCHORAGE LIO**

**COMMITTEE: SHESS**

**DATE: Feb 27, 2002**

**SUBJECT OF MEETING:**

**SB 325**

**UPDATE #:**



**DO YOU WANT**

**P R I N T YOUR NAME**

**ADDRESS (MAILING & ZIP)**

**REPRESENTING**

**TO TESTIFY?  
Y OR N**

<b>Pam Beale</b>		AHA	<b>Y=SB325</b>
Email address:			
<b>F X Nolan</b>	<i>Chief Em. Med. Serv. Anch</i>	MOA/AFD/AHA	<b>Y=SB325</b>
Email address:			
<b>Ronnie Sullivan</b>		So Region EMS	<b>Y=SB325</b>
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			

Will  
assess  
in  
jurisdiction

The Department of Health and Social Services propose that Senate Bill 325 be amended to add a Section (d) as follows:

(d) In this section, "person" has the following meanings:

1. the meaning given in AS 01.10.060 (8);
2. a municipality; or
3. a state agency.

intent relating to the provisions of ch. 26, SLA 1997, see § 1, ch. 26, SLA 1997 in the 1997 Temporary and Special Acts. For severability of the provisions of ch. 26, SLA 1997, see § 56, ch. 26, SLA 1997 in the 1997 Temporary and Special Acts.

**Effective dates.** — Section 29, ch. 26, SLA 1997,

which enacted this section, took effect on August 7, 1997.

**Editor's notes.** — Section 55, ch. 26, SLA 1997 provides that the provisions of ch. 26, SLA 1997 apply "to all causes of action accruing on or after August 7, 1997."

**Sec. 09.65.090. Civil liability for emergency aid.** (a) A person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid.

(b) A member of an organization that exists for the purpose of providing emergency services is not liable for civil damages for injury to a person that results from an act or omission in providing first aid, search, rescue, or other emergency services to the person, regardless of whether the member is under a preexisting duty to render assistance, if the member provided the service while acting as a volunteer member of the organization; in this subsection, "volunteer" means a person who is paid not more than \$10 a day and a total of not more than \$500 a year, not including ski lift tickets and reimbursement for expenses actually incurred, for providing emergency services.

(c) The immunity provided under (b) of this section does not apply to civil damages that result from providing or attempting to provide any of the following advanced life support techniques unless the person who provided them was authorized by law to provide them:

- (1) manual electric cardiac defibrillation;
- (2) administration of antiarrhythmic agents;
- (3) intravenous therapy;
- (4) intramuscular therapy; or
- (5) use of endotracheal intubation devices.

(d) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct.

(e) A person who uses an automated external defibrillator to treat another person in cardiac arrest is not liable for civil damages as a result of an act or omission in treating the other person if the person was properly trained to use the device and activates the emergency medical services system by notifying the appropriate emergency medical services agency.

(f) In this section, "properly trained" means that the individual has completed an automated external defibrillator training course from the American Heart Association, the American Red Cross, or another automated external defibrillator training course approved by the Department of Health and Social Services. (§ 1 ch 32 SLA 1967; am § 1 ch 119 SLA 1971; am § 38 ch 102 SLA 1976; am § 1 ch 90 SLA 1988; am §§ 2, 3 ch 32 SLA 1998)

**Revisor's notes.** — Subsections (b) and (c) were enacted as (c) and (d), respectively. Renumbered in 1988, at which time former subsection (b) was renumbered as (d). In 1994, in subsection (b), "subsection" was substituted for "paragraph" to correct a manifest error in ch. 90, SLA 1988.

**Cross references.** — For liability for services rendered by a physician-trained mobile intensive care paramedic, see AS 08.64.366.

For immunity from liability for emergency medical services, see AS 18.08.086.

For a statement of the purpose of the 1998 amend-

ment to paragraph (c)(1) and addition of subsections (e) and (f), see § 1, ch. 32, SLA 1998 in the 1998 Temporary and Special Acts.

**Effect of amendments.** — The 1998 amendment, effective August 12, 1998, inserted "manual" in paragraph (c)(1) and added subsections (e) and (f).

**Opinions of attorney general.** — Department of Natural Resources firefighters probably have a duty to rescue which removes them from the protection of this section. Thus, the state is liable through them for any negligence in the performance of that duty. May 22, 1980, Op. Att'y Gen.

## NOTES TO DECISIONS

**Common law.** — At common law there is no duty to rescue. *Lee v. State*, 490 P.2d 1206 (Alaska 1971), overruled on other grounds, *Munroe v. City Council*, 545 P.2d 165 (Alaska 1976).

The law has persistently refused to recognize the moral obligation of common decency and common humanity, to come to the aid of another human being who is in danger. Only in certain limited situations, as for example where the actor was responsible for placing the imperiled person in his endangered position, has a duty been recognized. However, once rescue operations have begun, the rescuer is held to a duty of due care. *Lee v. State*, 490 P.2d 1206 (Alaska 1971), overruled on other grounds, *Munroe v. City Council*, 545 P.2d 165 (Alaska 1976).

**The purpose of this section** is to induce voluntary rescue by removing the fear of potential liability which acts as an impediment to such rescue. *Lee v. State*, 490 P.2d 1206 (Alaska 1971), overruled on other grounds, *Munroe v. City Council*, 545 P.2d 165 (Alaska 1976).

**Persons under preexisting duty to rescue.** — This section is directed at persons who are not under some preexisting duty to rescue. *Lee v. State*, 490 P.2d 1206 (Alaska 1971), overruled on other grounds, *Munroe v. City Council*, 545 P.2d 165 (Alaska 1976).

A rescuer under a preexisting duty to rescue would not need the added inducement of immunity from civil

liability for his ordinary negligence. *Lee v. State*, 490 P.2d 1206 (Alaska 1971), overruled on other grounds, *Munroe v. City Council*, 545 P.2d 165 (Alaska 1976).

**Police officers.** — A holding that police officers have no duty to rescue would not comport with public conceptions of their role. *Lee v. State*, 490 P.2d 1206 (Alaska 1971), overruled on other grounds, *Munroe v. City Council*, 545 P.2d 165 (Alaska 1976).

This section, the Alaska Good Samaritan statute, does not shield a police officer from liability for ordinary negligence. *Lee v. State*, 490 P.2d 1206 (Alaska 1971), overruled on other grounds, *Munroe v. City Council*, 545 P.2d 165 (Alaska 1976).

**Physicians.** — This section does not extend immunity to physicians who have a preexisting duty to render emergency care. *Deal v. Kearney*, 851 P.2d 1353 (Alaska 1993).

**Coast Guard assistance.** — By this section, Alaska has partially immunized the conduct of one who, voluntarily and without prior obligation, renders emergency aid. The Coast Guard has no legal obligation to go to the aid of a pilot who has crashed, the Coast Guard cannot be held to a higher standard of care than would be applied to a private individual under like circumstances, and the count of plaintiff's complaint based on ordinary negligence must be dismissed. *Bunting v. United States*, 662 F. Supp. 971 (D. Alaska 1987), *aff'd*, 884 F.2d 1143 (9th Cir. 1989).

**Sec. 09.65.091. Civil liability for responding to disaster.** (a) A person who provides equipment or services on the request of a police agency, fire department, rescue or emergency squad, or other governmental agency during a state of emergency declared by an authorized representative of the state or local government is not liable for the death of or injury to any person or damage to any property caused by that person's actions, except when the trier of facts finds that the person acted intentionally, recklessly, or with gross negligence.

(b) This section does not affect the right of a person to receive benefits to which the person would otherwise be entitled under the workers' compensation law or under any pension law, nor does it affect entitlement to any other benefits or compensation authorized by state or federal law. (§ 1 ch 4 SLA 1984)

**Sec. 09.65.092. Civil liability for voluntary aircraft safety inspection.** An aircraft or power plant technician or mechanic certified by the Federal Aviation Administration who participates without compensation in a voluntary aircraft safety inspection program is not liable for civil damage resulting from an act or omission arising out of an aircraft safety inspection in that program unless the act or omission constitutes gross negligence or reckless or intentional misconduct. (§ 1 ch 3 SLA 1982)

**Sec. 09.65.095. Liability for administration of blood test.** (ε) A civil or criminal action arising out of battery may not be brought against a health care provider for the act of taking a blood sample if the sample is taken

(1) at the request of a police officer under the circumstances specified in AS 28.35.035 or when the arresting officer has a search warrant or court order authorizing the taking of the blood sample; and

(2) without the use of excessive or unreasonable force.

(b) In this section,

(1) "health care provider" means a nurse licensed under AS 08.68, a physician licensed under AS 08.64, and a person certified by a hospital as competent to take blood samples;

(2) "hospital" means a hospital as defined in AS 18.20.130, including a governmentally owned or operated hospital.

**SITE: Kenai LIO**

**COMMITTEE:** Senate Health,  
Education &  
Social Services

**DATE:** 2-27-02

**SUBJECT OF MEETING:**

**SB 325** Civil Liability for  
Defibrillator Use

**UPDATE #:**



# PLEASE SIGN IN

**PRINT YOUR NAME**

**ADDRESS (MAILING & ZIP)**

**REPRESENTING**

**TESTIFYING?**

**Y or N**

*Shad to Kenai*  
**Jason Elson (SB 325)**

PO Box 2712 Kenai, AK 99611

**Kenai Fire Chiefs  
Assoc**

**Y (SB 325)**

Email address:

Email address:

Email address:

Email address:

Email address:

Email address:





# Alaska State Legislature

SENATOR  
**GENE THERRIAULT**

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Senate

While in session  
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Senate District O

**Senate Bill 325 "An Act relating to civil liability for use of an automated external defibrillator; and providing for an effective date."**

**Sponsor: Senator Gene Therriault**

## Sponsor Statement

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Senate Bill 325 will help save lives in Alaska by increasing the availability of devices designed to restore a normal heartbeat when a person's heart suddenly stops.

Each year, 250,000 people die in the United States as a result of sudden cardiac arrest. The most important treatment for more than half of these patients is defibrillation, an electrical shock intended to restore a more normal cardiac rhythm. For each minute a person remains in cardiac arrest, their chances of survival decrease by approximately 7% to 10%. Nearly all emergency medical services agencies in Alaska are capable of performing defibrillation. Strategically placed Automated External Defibrillators, known as AEDs, have the potential to save lives by allowing defibrillatory shocks to be delivered prior to the arrival of the ambulance crew.

AEDs have evolved significantly over the past few years and the current generation of devices is safer, easier to use, and more maintenance free than ever before. Businesses and municipalities are interested in making AEDs more accessible in the workplace and in locations where large groups gather so that both trained staff and trained laypersons can access the devices in the event of a sudden cardiac arrest. Notable successes have been achieved with these devices in this setting, and a number of programs have placed these devices where they are accessible to the general public. Examples include O'Hare and Midway airports in Illinois and Dallas/Ft. Worth airport in Texas. The American Heart Association is recommending the training of non-medical lay persons in the use of automated external defibrillator devices.

Currently, AS 09.65.090 provides immunities from civil liability to individuals who use the device. It does not provide any immunities for those making the devices accessible for use. This has limited the expansion of AED access programs due to a perception of excessive liability that is largely due to unfamiliarity with the current state of the technology regarding ease of use and safety. It is literally impossible to shock a person who does not require it with the current devices.

## SPONSOR STATEMENT

Email: Senator\_Gene\_Therriault@legis.state.ak.us

SB 325 corrects this deficiency so that these potentially lifesaving devices are more readily available for use and has provisions that result in the integration of the AEDs into the local emergency response system.

Specifically, the bill repeals the language regarding AEDs from AS 09.65.090 and moves it to the new 09.65.087. The previously existing requirement that users of the devices be "properly trained" has been deleted in recognition of the ease of use of the new devices and their ability to discern between shockable and nonshockable rhythms and in anticipation of even further advances in this technology.

There are several specific prerequisites to receive immunities from civil liability that are important to note. First, those who acquire or provide the device must notify the local emergency response agency of the location of the device. This is very helpful information for incoming emergency medical services personnel. Second, those who acquire or provide the device are obligated to properly maintain and test it. Third, it requires that a means of notifying the local EMS agency be available when a medical emergency occurs where the device is used. Finally, because trained rescuers can deliver the shocks more quickly than those who are not, those who acquire or provide the device for use by the agency's employees are required to provide appropriate training to those employees and agents who are reasonably expected to use the device.

Senate Bill **325** represents model legislation that takes the best from both Federal and other states' statutes regarding the use of automated external defibrillators and creates an environment that encourages the proliferation of this life saving technology in Alaska.