

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

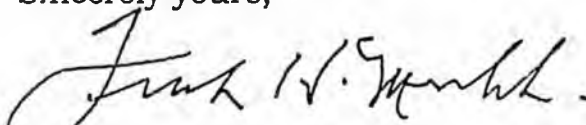
11135 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

The Honorable Gene Therriault
February 4, 2004
Page 2

In the absence of additional third-party receipts, the APH and the AVH would remain unduly dependent on state general fund support and resident fees. Given the state's ongoing fiscal constraints and the impracticality of requiring home residents to pay for the full cost of care, failure to adopt the measures included in this bill may well jeopardize the APH and AVH over the long term.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is written in a cursive, flowing style.

Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 301
 (S) Publish Date: 2/6/04
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO PIONEER AND VETERAN HOMES

RDU Alaskan Pioneer Homes
 Component Pioneers Homes

Sponsor RULES COMMITTEE

Requester _____

Component No. 2671

Expenditures/Revenues (in thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel		2.0	2.0	2.0	2.0	2.0
Contractual		24.0	52.8	58.1	63.9	70.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	26.0	54.8	60.1	65.9	72.3
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1002)		73.0	289.7	401.8	514.0	570.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts		73.7	289.7	401.8	514.0	570.0
1003 GF Match						
1004 GF		(47.7)	(234.9)	(341.7)	(448.1)	(497.7)
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health						
Other(Specify Type -do not abbreviate)						
TOTAL	0.0	26.0	54.8	60.1	65.9	72.3

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will provide authority to serve veterans through identification of one or more homes within the Pioneer Homes system as a Veteran Home consistent with US Veterans Administration requirements. Once certified by the VA, the state can bill the VA \$26.95 per day for services provided to qualified residents of the Veteran Home. VA receipts are anticipated for the Palmer Pioneer Home certification sometime in FY2006. The Governor's FY2005 capital budget includes a request to convert the Palmer Pioneers' Homes from its current use to a State Veteran Home (SVH). The conversion is estimated to cost \$3.5 million in FY2005, of which 35% is state match.
 (Continued on next page)

Prepared by: David W. Williams
 Division: Alaska Longevity Programs
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-5737
 Date/Time 01/12/2004
 Date 01/12/2004

COMMITTEE COPY

FISCAL NOTE
FN 1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 301

ANALYSIS CONTINUATION

Operating cost analysis:

Expenditures

Additional FY06 operating costs include \$2.0 in travel for attendance at federal meetings, national VA meetings and similar negotiations (based on one out-of-state trip a year). The contractual line includes \$24.0 for a transportation contract for Veterans' doctor visits for one-half year. The second year is a full year with growth according to the number of veterans. The assumption for growth is one new veteran resident each month. Veterans must go to the VA doctor in Anchorage.

Revenues:

The VA rate for domiciliary care is \$26.95 per day. Federal approval of the funding is dependent upon the state funding its portion of required construction/remodeling costs. With legislative approval of the capital request, it is anticipated that construction could begin in September 2004. The VA anticipates 450 days for construction with an anticipated opening date mid-year FY2006.

Estimate of VA Payments	FY06	FY07	FY08	FY09	FY10
Veterans Per Day Rate	\$26.95	\$26.95	\$26.95	\$26.95	\$26.95
Veteran residents who qualify for VA domiciliary care	16	31	43	55	61
Days of care in month	180	365	365	365	365
Utilization/Vacancy	95%	95%	95%	95%	95%
VA Revenue in Fiscal Year	\$73,735	\$289,692	\$401,831	\$513,970	\$570,040

Section 1: Amends AS 08.68.395(g)(2), dealing with nursing practices, to add a reference to the Alaska Veterans' Home within the definition of "health care facility". The section also updates the reference to the current administration of the Homes by the Department of Health and Social Services.

Section 2: Amends AS 15.05.020, dealing with rules for determining residence of a voter, to change the reference to the Alaska Pioneers' Home to include the Alaska Veterans' Home. The section also reorders the numbering by deleting numbering for current sections (7) and (9) for which the language was repealed in 1972.

Section 3: Amends AS 17.37.070(6), dealing with facilities monitored by the state with regard to medical use of marijuana to change the reference to Alaska Pioneers' Home by adding "Alaska Veterans' Home."

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Section 5: Amends AS 18.35.300 to include the Alaska Veterans' Home as a place where smoking is prohibited.

Section 6: Amends the AS 36.30.990(1) (A) definition of "agency" within the State Procurement Code to include the Alaska Veterans' Home.

Section 7: Amends AS 37.05.146(c)(31) dealing with the handling of public receipts to add "and Alaska Veterans' Home" to the term "Alaska Pioneers' Home."

Section 8: Amends AS 37.05.990(2), definition of "state agency," "agency," "department," or similar terms dealing with state fiscal procedures to include the Alaska Veteran's Home.

Section 9: Amends the Executive Budget Act definition of "agency" in AS 37.07.120(1) to include the Alaska Veterans' Home.

Section 10: Amends the State Personnel Act in AS 39.25.120(c)(8) to clarify that Alaska State Veterans Home managers in the state service are partially exempt positions.

Section 11: Amends AS 44.29.020(a)(16) to include the Alaska Veterans Home within the duties of the Department of Health and Social Services.

Section 12: Amends AS 47.25.140 to remove the statutory prohibition for payment of public assistance to a resident of the Alaska Pioneers' Home.

Section 13: Adds a new section, as AS 47.25.140(b), to clarify that the Alaska Pioneers' Home or the Alaska Veterans' Home is not a "public institution" under the State's public assistance law. The effect is to identify the Alaska Pioneers' Home and Alaska Veterans' Home as a facility in which residents may receive a Medicaid benefit under federal Medicaid regulations. Under the federal Medicaid regulations (42 CFR 435.1009 "public institution") a person living in a "public institution" of more than 16 beds is prohibited from receiving Medicaid benefits, unless that person is living in a medical institution. This will allow payment for Medicaid services, but will not allow payment for room and board provided by the Pioneers' or Veterans' Homes.

Section 14: Amends AS 47.45.240(c) dealing with the powers, duties, and limitations of the Older Alaskans Commission so as to not permit the Commission to investigate, review, or undertake any responsibility for the Alaska Veterans' Home.

Section 15: Repeals and reenacts AS 47.55 to provide for general operational policies and adoption of regulations necessary for the Department of Health and Social Services to maintain the Alaska Pioneers' Home and Alaska Veterans' Home. Subsection (a) changes the requirement from the state "shall" to "may" operate Pioneers' homes and permits the state to operate one or more Veterans' Homes. The reenacted section provides for department receipt of money from various sources, including the federal government, for general conduct of business and for the department to perform all executive or administrative duties necessary and advisable to conduct business and carry out the purposes of the chapter. The section also authorizes the department to engage in activities directed to increase revenue from a home, including lease of excess bed or floor space, or the sale or lease of space or buildings that are not in use or underutilized.

Section 16: Repeals and reenacts AS 47.55.020 to establish the requirements for persons who wish to enter a home. The section continues the current Alaska Pioneers' Home eligibility requirement for a person to be 65 years of age or older and to have been a resident of the state continuously for more than one year prior to application for admission. The section extends those same requirements a person who wants to enter Alaska Veterans' Home. The section also sets out requirements for payment and provision for payment assistance from the state for those who are not able to pay the charges in full. The reenacted section continues the present prohibition of eviction of a person due to their inability to pay the monthly rate if the person is otherwise in compliance with other requirements of the chapter. Payment assistance provided to a resident under the section continues to be a debt to the state as in current law. Qualifications for payment assistance are set out in the section, including provisions for exclusion of specified real and personal property, income, and assets in determining eligibility for payment assistance. Authorization is added for the department to require a person to apply for other state or federally sponsored programs as a condition for receipt of payment assistance.

Section 17: Amends AS 47.55.030(a) to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home with regard to admission and payment.

Section 18: AS 47.55.030(c) is amended to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home with regard to current notice requirements for a change in the rates charged.

Section 19: AS 47.55.040, regarding transfer of an insane person from a home, is amended to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home.

Section 20: AS 47.55.050 regarding appropriation of funds by the legislature for maintenance and receipt of funds from various sources for support of a home is amended to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home.

Section 21: AS 47.55.060 is amended to clarify that trust fund provisions for a home apply to both the Alaska Pioneers' Home and the Alaska Veterans' Home.

Section 22: AS 47.55.070 dealing with indebtedness to the state is repealed and reenacted to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home and to remove numbering for several subsections that were repealed in 1990.

Section 23: AS 47.55.095 is amended to add Alaska Veterans' Home to the section that limits enforcement of claims against an estate.

Section 24: Amends AS 47.55 to add a definition section.

The section defines "department" to be the Department of Health and Social Services, in line with the recent transfer of organizational relationship of the Pioneer Homes system to that department.

The term "home" is defined to include both the Alaska Pioneers' Home and Alaska Veterans' Home.

The definition of "physical disability or other reason" is relocated to the definition section from the body of the current law in section AS 47.55.020.

The term "resident of the state" is defined, by reference to existing law AS 47.25.430(a), to mean a person who is living in the state voluntarily with the intention of making the state the person's home and who is not living in the state for a temporary purpose.

The term "veteran" is defined to mean a person who has been honorably discharged with 181 days or more of active in the armed forces of the United States. The term includes the Alaska National Guard or the Alaska Territorial Guard.

Section 25: This section of the bill repeals:

AS 44.20.020(a)(17), which is a separate listing of veterans' home facilities as a duty of the Department of Health and Social Services. The reference is incorporated in AS 44.20.020(a)(16) under section 11 of the bill.

AS 47.55.035, which provides a different standard of program admission for a 30 year resident. The residency standard for admission to the program must be the same for all persons who have been a resident for at least one year. The residency standard for admission to a home is already set as one year in other sections of the chapter.

Sections 1-15, ch.4, SSSLA 2002 provided amendments to many of the same sections that are changed in this bill, HB 440(a), that are contingent upon implementation of a pilot project. The pilot project can not be implemented as envisioned, and so, the contingent language is removed to avoid conflict with the provisions of this bill.

Section 26: Adds a new section to uncodified law that permits a resident of an Alaska Pioneers' Home or Alaska Veterans' Home to remain living in the same facility they are living in when the federal Veterans Administration certifies a home for veterans. This addition to the statute assures residents that they will not be required to move from the facility to in which they live unless they wish to do so. Section (b) of the new uncodified language requires the commissioner to promptly post the date of certification on the Alaska Online Public Notice System.

Section 27: Adds a new section authorizing adoption of regulations necessary to implement the changes made by the bill, in accordance with the effective date of the respective statutory changes.

Section 28: Provides instruction to the revisor of statutes for changing the heading of AS 47.55 in line with the changes to the body of the chapter: "Alaska Pioneers' Home and Alaska Veterans' Home."

Section 29: Provides for an immediate effective date for section 27 that authorizes regulations for implementation of the bill.

Section 30: Provides for an effective date for the bill of July 1, 2004 except for section-29.

23G-2
2/10/2004
(3:48 PM)

AMENDMENT

OFFERED IN THE SENATE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE
TO: SB 301

BY _____

- 1 Page 12, line 22, following "AS 44.29.020(a)(17)":
- 2 Insert ", 44.29.400;"

Sec. 44.29.400. State veterans' home facilities.

(a) The Department of Health and Social Services shall apply for federal assistance to establish and operate state veterans' home facilities that provide domiciliary care and nursing home care with related medical services. The department, within available funds, shall establish and operate veterans' homes at sites selected by the commissioner of health and social services after consultation with the adjutant general and veterans' organizations.

(b) A person who resides in a veterans' home operated under this section shall pay the Department of Health and Social Services a monthly charge established by the department by regulation in payment of the cost of the care. The charges shall be designed so that, when combined with federal or other nonstate assistance that may be received on behalf of the residents, all costs of care are paid by residents. The regulations may provide for exemptions or reductions based upon hardship.

(c) In this section, "care" means care given in a state home for veterans, as that term is defined in 38 U.S.C. 101(19), that meets the standards required under 38 U.S.C. 8134.

State of Alaska
OFFICE OF THE GOVERNOR

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



John Manly
Press Spokesman
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FOR IMMEDIATE RELEASE: February 5, 2004

No. 04-021

Governor Proposes Alaska Veterans Home

Bill establishes Veterans Home in Alaska Pioneer Homes system,
Widens funding available for Pioneer Home system.

(Juneau) – Governor Frank H. Murkowski today introduced a bill that designates a home in the Alaska Pioneer Home system as a state Veterans Home. The bill also enables the State of Alaska to access Veterans Benefits, Medicaid, and other sources to fund the Alaska Pioneer Home system. "Taken together, these actions serve Alaska veterans and help sustain the Pioneer Home system and the Alaska Veterans Home for future years," Murkowski said.

The Governor has endorsed the selection of the Palmer Pioneers Home for conversion to a state Veterans Home. Today, he introduced legislation to address the legal requirements to establish an Alaska Veterans Home that meets the requirements of the federal Veterans Administration.

"The Department of Health & Social Services has already begun the process that will ultimately permit residents of the Pioneer Homes to use their federal benefits while living in a Pioneer Home," Health and Social Services Commissioner Joel Gilbertson said.

"For over 20 years the state has sought a viable way to provide a state Veterans Home," Murkowski said. "Alaska remains one of just two states that do not have a State Veterans Home." In May 2002, the Alaska Legislature passed a bill that was intended to qualify the Pioneer Homes for payment of veterans' benefits. A pilot program to do this was scheduled. However, the state did not reach an agreement with the federal Veterans Administration regarding use of benefits within the full Pioneer Homes system. The studies and discussions resulted in an application to the federal Veterans Administration to designate one Pioneer Home as a state Veterans Home.

Representatives of the federal Veterans Administration visited several of the Alaska Pioneer Homes and agreed that Palmer is the right size and location to serve veterans. The state's application to the federal Veterans Administration proposed a 1-1/2 year project to renovate the Palmer Pioneers' Home, at 65% federal expense, to complete deferred maintenance and modernize the facility. Following the renovation, the federal Veterans Administration will pay the state \$26.95 per day for each veteran served.

The Alaska Veterans Home will eventually serve between 62 and 82 veterans. "No current resident will be asked to move from the Palmer Pioneers Home, and no veteran will be forced to move to the Home," Gilbertson said. "During a transition period, veterans who are in other Pioneer Homes may request a transfer to the Palmer Home. When a bed is available with the level of service they require, the veteran's request for transfer will be accommodated." The per diem payments will be a new source of funding for the Alaska Pioneer Homes, and will help the state Veterans Home become a reality for the veterans and for our state, Gilbertson said.

Provisions in the bill help assure the long-term sustainability of the Alaska Pioneer Home system, by identifying and securing third-party payments from federal sources. In most of the 239 assisted living facilities in Alaska, many residents pay the cost of services through insurance, Medicaid, self-payments and other health care plans. Until recently, residents could not use Medicaid and veterans benefits to pay for Pioneer Homes. Veterans' benefits were only available at certified veterans' homes, and persons living in "public institutions" could not use Medicaid. "We are changing that so veterans' benefits and Medicaid can be used in Alaska Pioneer Homes," Gilbertson said.

Alaska Pioneer Homes -- as licensed assisted living facilities that offer professional nursing services, personal care services, social services, and other support services -- will soon be reimbursed by Medicaid for eligible residents. Those services are defined as residential supported living services under the Older Alaskan's Home and Community-based Services waiver granted by the federal Centers for Medicaid and Medicare Services. Under the Older Alaskans Waiver, assisted living facilities may be paid for providing services to Medicaid eligible persons. Although the Pioneer Homes have been licensed as assisted living facilities for several years, the prohibition has remained in effect until questioned late in 2003. State regulations lifting the ban on Medicaid payments will be effective in the spring of 2004.

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For more information, please contact

Sherry Hill, Special Assistant to the Commissioner
Department of Health and Social Services
(907) 465-1618

Ross Soboleff, Public Information Officer III
Department of Health and Social Services
(907) 465-1611

Fact Sheet: Alaska Pioneer Homes

The facilities

There are six Alaska Pioneer Homes with a total of 602 beds. The homes are located in:

Anchorage -- <http://hss.state.ak.us/dalp/alp/anchorage/home.htm>

Fairbanks -- <http://hss.state.ak.us/dalp/alp/fairbanks/home.htm>

Juneau -- <http://hss.state.ak.us/dalp/alp/juneau/home.htm>

Ketchikan -- <http://hss.state.ak.us/dalp/alp/ketchikan/home.htm>

Palmer -- <http://hss.state.ak.us/dalp/alp/palmer/home.htm>

Sitka -- <http://hss.state.ak.us/dalp/alp/sitka/home.htm>

The services we provide to clients

For the last decade the Alaska Pioneer Homes have been licensed as assisted living facilities, offering a high degree of professional services to meet residents' needs. Typically, residents of the Homes are not able to live without some form of daily assistance, and may require nursing and other physical and emotional support services offered in a licensed assisted living facility. Professional services range from assurance of a safe environment and occasional help with daily life skills, to skilled nursing, personal care, and other support services including end of life care. Many residents receive a level of service that would otherwise be delivered in a nursing home or under the Older Alaskan Home and Community-Based Medicaid waiver.

The residents

Occupancy of Pioneer Homes fluctuates, but system-wide as of January 2004 there are 427 residents. All residents require a safe home environment, room and board, and opportunities for social interaction and recreation. Of the 427 residents, 253 require the high levels of professional care available 24-hours a day. Another 117 residents need assistance with basic living skills at some time during the day, and 57 residents are fairly self-sustaining, occasionally requiring emergency assistance.

Veterans in Pioneer Homes

During FY 2003, the Alaska Pioneer Homes served 553 seniors, of whom about 20 percent are veterans and about 26 percent had qualified for Medicaid before going into the Home. There were over 2,600 qualified Alaskan residents on the waiting list, which means they are over age 65 and intend to enter the Alaska Pioneer Homes in the future.

Rates and how residents pay them

The rates for the Alaska Pioneer Homes range from \$2,135 per month for housing with some assistance in making appointments and other social services, to \$6,450 for the highest level of care including 24-hour supervision, extensive assistance with activities of daily living, and intermittent health care. About 60 percent of Pioneer Home residents depend on the state-funded payment assistance program to pay for at least part of the monthly rate.

For more information:

Dave Williams, Project Coordinator

Division of Alaska Pioneer Homes

465-5737

Frequently Asked Questions: Alaska Veterans Home & Alaska Pioneer Homes

Q: How will the Alaska Veterans Home fit into the Alaska Pioneer Homes system?

The Palmer Pioneers' Home will be converted into the Alaska Veterans Home, but will remain as one of the six Homes within the Alaska Pioneer Home system. "Certifying" the Alaska Veterans Home means that the facility will be renovated to address deferred maintenance, and to meet requirements of the federal Veterans Administration. After renovation, the federal Veterans Administration will pay \$26.95 per day to the State for each veteran served in the Alaska Veterans Home. Using a nationwide formula, the federal Veterans Administration calculated that Alaska requires a facility providing 79 beds. The federal Veterans Administration is firm in its intent to certify one facility in Alaska, however they may increase the capacity to 82 beds, the capacity of the Palmer Pioneers' Home.

Q: If I am a veteran living in an Alaska Pioneer Home, will I have to move to the Alaska Veterans Home?

The choice of whether to move to the Alaska Veterans Home is up to the veteran. Residents who are living in a Pioneer Home will not be required to move to or from the Alaska Veterans Home. When the Alaska Veterans Home is open, veterans on the Pioneer Home waiting list will be given an opportunity to choose to enter the Alaska Veterans Home or another Pioneer Home. Admission to a Pioneer Home will continue to be based on availability of a bed and services appropriate to the need of the applicant.

Q: Will people living in the Palmer Pioneers' Home be required to move to another Pioneers' Home?

No. Current residents of the Palmer Pioneer Home will not be asked to move to another Home. The agreement between the Alaska Department of Health & Social Services and the federal Veterans Administration provides for a transition period of several years, during which time current residents of the Palmer Pioneers' Home will not have to move. Beyond the transition period, the federal Veterans Administration will to permit 20 beds in the facility to continue to be used by non-veterans.

Q: Will people who are not veterans be allowed to move to the Palmer Pioneers' Home after it's converted to the Alaska Veterans Home?

Yes. After a transition period, the federal Veterans Administration requires that 62 of the 82 beds in the facility be reserved for veterans. The remaining 20 beds in the facility are available to veterans or non-veterans.

Q: Will a veteran be charged a different rate?

No. The rates are based on the level of care the resident requires and will not differ because the resident is a veteran.

Q: If I am a veteran and intend to move into the Alaska Veterans Home, will I be able to keep my federal veterans disability benefits for my spouse?

Yes. The decision to make veterans disability payments is a federal Veterans Administration decision. If a resident (including a resident who is a veteran) is not able to

pay the level of care rate, payment assistance is available. Certain income and assets are excluded from the qualification for payment assistance, including veterans benefits paid under federal law, as cited in the bill to designate an Alaska Pioneer Home as the Alaska Veterans Home, currently before the Alaska Legislature.

Q: How much will the federal Veterans Administration pay?

The federal Veterans Administration is willing to pay the state \$26.95 per day for domiciliary care provided to veterans in the Alaska Veterans Home. That amount will pay part of the daily rate billed to the resident.

Q: I already have payment assistance from the State. Do I also need to apply for "federally sponsored programs" like Medicaid?

If you require payment assistance and are eligible for Medicaid, you probably won't notice a difference – Pioneer Homes services and rates won't change. However, part of your payment assistance will be federally funded. The federal funding will help sustain Alaska Pioneer Homes into the future, because State General Funds will not be paying the entire cost of payment assistance for residents.

Virginia Smiley, Administrative Services Manager
Division of Alaska Pioneer Homes
465-4422

Senate Bill 301

Sectional Analysis

Prepared by the Department of Health & Social Services
February 20, 2004

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Section 22: AS 47.55.070 dealing with indebtedness to the state is repealed and reenacted to reference both the Alaska Pioneers' Home and the Alaska Veterans' Home and to remove numbering for several subsections that were repealed in 1990.

Section 23: AS 47.55.095 is amended to add Alaska Veterans' Home to the section that limits enforcement of claims against an estate.

Section 24: Amends AS 47.55 to add a definition section.

The section defines "department" to be the Department of Health and Social Services, in line with the recent transfer of organizational relationship of the Pioneer Homes system to that department.

The term "home" is defined to include both the Alaska Pioneers' Home and Alaska Veterans' Home.

The definition of "physical disability or other reason" is relocated to the definition section from the body of the current law in section AS 47.55.020.

The term "resident of the state" is defined, by reference to existing law AS 47.25.430(a), to mean a person who is living in the state voluntarily with the intention of making the state the person's home and who is not living in the state for a temporary purpose.

The term "veteran" is defined to mean a person who has been honorably discharged with 181 days or more of active in the armed forces of the United States. The term includes the Alaska National Guard or the Alaska Territorial Guard.

Section 25: This section of the bill repeals:

AS 44.20.020(a)(17), which is a separate listing of veterans' home facilities as a duty of the Department of Health and Social Services. The reference is incorporated in AS 44.20.020(a)(16) under section 11 of the bill.

AS 47.55.035, which provides a different standard of program admission for a 30 year resident. The residency standard for admission to the program must be the same for all persons who have been a resident for at least one year. The residency standard for admission to a home is already set as one year in other sections of the chapter.

Sections 1-15, ch.4, SSSLA 2002 provided amendments to many of the same sections that are changed in this bill, HB 440(a), that are contingent upon implementation of a pilot project. The pilot project can not be implemented as envisioned, and so, the contingent language is removed to avoid conflict with the provisions of this bill.

Section 26: Adds a new section to uncodified law that permits a resident of an Alaska Pioneers' Home or Alaska Veterans' Home to remain living in the same facility they are living in when the federal Veterans Administration certifies a home for veterans. This addition to the statute assures residents that they will not be required to move from the facility to in which they live unless they wish to do so. Section (b) of the new uncodified language requires the commissioner to promptly post the date of certification on the Alaska Online Public Notice System.

Section 27: Adds a new section authorizing adoption of regulations necessary to implement the changes made by the bill, in accordance with the effective date of the respective statutory changes.

Section 28: Provides instruction to the revisor of statutes for changing the heading of AS 47.55 in line with the changes to the body of the chapter: "Alaska Pioneers' Home and Alaska Veterans' Home."

Section 29: Provides for an immediate effective date for section 27 that authorizes regulations for implementation of the bill.

Section 30: Provides for an effective date for the bill of July 1, 2004 except for section 29.

A M E N D M E N T

OFFERED IN THE SENATE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE
TO: SB 301

BY _____

1 Page 12, line 22, following "AS 44.29.020(a)(17)":

2 Insert ", 44.29.400;"

3

4 Page 12, line 23, following "2002":

5 Insert ", as any of those sections are amended by a bill passed by the Second Session of
6 the Twenty-Third Alaska State Legislature and enacted into law that implements changes
7 recommended by the revisor of statutes,"

8

9 Page 12, following line 23:

10 Insert the following new material:

11 "(c) Sections 50 and 51 of an Act passed by the Second Session of the Twenty-Third
12 Alaska State Legislature implementing changes recommended by the revisor of statutes, which
13 provide for conditional effectiveness of and a conditional effective date for sec. 25 of that Act,
14 are repealed."

15

16 Page 13, following line 17:

17 Insert a new bill section to read:

18 "* Sec. 29. CONTINGENT EFFECT AND CONTINGENT EFFECTIVE DATE. (a) Section
19 25(c) of this Act takes effect only if a bill is passed by the Second Session of the Twenty-Third
20 Alaska State Legislature and is enacted into law that implements changes recommended by the
21 revisor of statutes.

1 (b) If sec. 25(c) of this Act takes effect under (a) of this section, it takes effect
2 immediately under AS 01.10.070(c) or on the effective date of the Act described in (a) of this
3 section implementing changes recommended by the revisor of statutes, whichever is later."
4

5 Renumber the following bill sections accordingly.
6

7 Page 13, line 19:

8 Delete "sec. 29"

9 Insert "secs. 29 and 30"

Amendments to SB 301

Amendment #

Offered by Senator Green

Page 6, line 28,

Delete: "may"

Inse. t: "shall"

This will maintain the requirement that the state operate the Pioneers' Homes, rather than making it optional. If we were ever to discontinue the Pioneers' Homes, it should be a result of legislative policy discussion, not simply some future administrative decision.

Amendments to SB 301

Amendment #
Offered by Senator Green

Page 6, line 31, following "social services.",

Insert: "The only home that may be converted to a veterans home is the
Pioneers' Home located in Palmer."

The Administration has indicated that the proposed conversion of the Palmer
Pioneers' Home is their intention. This language will clarify that it is also
legislative intent.

Amendments to SB 301

Amendment #
Offered by Senator Green

Page 8, line 4,
Strike: "sale"

Should there be sale of any of the Pioneers' Homes, it should only be a result of full policy discussion in the legislature and passage of legislation, not an administrative decision.

Amendments to SB 301

Amendment #

Offered by Senator Green

Page 12, lines 19-20

Delete "with 181 days or more of active service in"

Insert "from"

Pioneers of Alaska

Suggestions

Regarding SB301/HB440

An Act Relating to Pioneer/Veterans' Homes

Introduction

The Pioneers of Alaska was established in 1907 and is an organization of nearly 7,000 Alaskans, each of whom has been a resident of the state for 30 or more years. The organization has both veteran and non-veteran members. The Pioneers have been longtime users and supporters of Alaska's Pioneer Home system.

Plans are underway to convert the Palmer Pioneers' Home to a Pioneer and Veterans' Home with 75% of the 82 beds in the facility being reserved for veteran pioneers. The above-referenced bills would give the Department of Health and Social Services the statutory authority to operate Veterans' Homes within the Pioneer Home system thereby allowing the conversion to take place.

The Pioneers of Alaska supports enabling pioneers, both veteran and non-veteran, to remain in their home communities through a comprehensive array of services including the services available at the state's Pioneer Homes. We would prefer that the state continue its efforts to enable the state to receive per diem reimbursement from the U.S. Veterans Administration for services provided to veterans in all of the Pioneer Home facilities. Indeed, according to the *Alaska State Veterans Home Feasibility Study* prepared for the Legislative Budget and Audit Committee in July 2003 by the McDowell Group "A large majority of Alaska veterans – approximately 80% - would be reluctant to leave their home communities to obtain long-term care."

While we believe that the administration should continue efforts to obtain VA per diem to enable veterans to stay in, or closer to, their home communities, we are not advocating a delay of the bill before you today until that battle is resolved.

The current bill does provide benefits and needed changes to help the Pioneer Home system continue in these tough fiscal times. These include a 65% federal match rate for capital projects at a Pioneer Home that is certified as a veterans' facility, the ability to receive VA per diem rates for veterans in the certified facility and the ability to receive Medicaid dollars to help all of the Pioneer Home facilities.

We do have some specific concerns regarding the bill.

- The current statute, AS 47.55.010(a) provides that the state shall maintain facilities known as the Alaska Pioneers' Homes. Section 15(a) of the proposed bill changes the word "shall" to "may" making it permissive. The Pioneers support keeping the existing mandatory language in the bill to insure that any attempt to get out of providing Pioneer Home services by the department is brought to the legislature for review and full legislative hearing and debate.
- Section 15(a) also authorizes the state to maintain one or more veterans' home facilities. Our concern is more of the existing Pioneer Homes than just the Palmer Pioneer Home could be subject to conversion under this broad language and therefore recommend that the bill specify that it is only the Palmer facility that is subject to conversion.
- Section 15(e) of the bill authorizes the department to engage in activities directed to increase revenue from a home. Under the bill, these activities may include the lease of excess bed or floor space or the sale or lease of space or buildings that are not in use or underutilized. While we have concerns, that due to management decisions and not due to demand, there may appear at times to be excess beds and space that should not be leased, our main concern is the authority this bill gives to the department to sell space and buildings in the Pioneer Home system. We oppose giving the department such authority believing such a major public policy shift should be brought by the department to the legislature.
- Section 25(a) of the bill repeals the provision that an applicant for admission to a Pioneer Home who has been a resident of the state for thirty years and is otherwise qualified for admission, may not be disqualified for admission because of absence from the state if the commissioner determines the absence was reasonable and admission is consistent with the intent of the Pioneer Home Statutes. The words "for thirty years" may make this provision unconstitutional as it gives a benefit to some residents based on length of residency that other residents in similar situations do not receive. Rather than get rid of the flexibility of this provision, however, we recommend that the provision be kept and amended by just removing the words "for thirty years." This keeps the intent and purpose of the statute intact while also removing the constitutional question.
- We understand the purpose of the bill and the need to designate that 75% of the beds in the facility are reserved for veterans in order to obtain the federal money. We are also mindful of the hope of all concerned that the remaining 25% of the beds, about 20, are still available for the non-veteran pioneers who want to stay in their local community in the Palmer Pioneer and Veterans Home. Our preference is that given the reserving of 75% of the available beds for veterans that the remaining 25% be reserved for non-veterans. It has been pointed out to us that we

are asking that a person who is otherwise qualified for one of these 20 beds could not get one of these beds because they were a veteran and that is true. The same argument applies to the other 62 beds. We are open to suggestions in drafting appropriate language that will enable our state to move forward on the VA certification of this project but in a manner that addresses this legitimate concern.

- We recognize that residents currently in the Palmer Pioneer Home will get to remain in the home. We would like assurances by the department, however, for all of the homes, and particularly this home, that once new residents are moved into a home, that absent services unavailable in the home, the resident can stay in the home and have priority for a higher care bed should the need arise over someone not yet in the home who needs the same level of care bed.
- AS 47.55.020(b) currently provides that "every person admitted to the Pioneers' Home who receives income from any source in excess of \$100 per month may be required by the department of health and social services to pay the excess to the department immediately upon receipt of the money in payment, or part payment, of the cost of the person's care." The same subsection also provides that the department may pay a resident without funds the sum of \$100 per month. The reasoning of these provisions is to give the residents in the home dignity and to enable them to purchase the most basic items they need and maybe even a birthday card for their children and grandchildren. These provisions have not been amended for many years to account for inflation and we urge the legislature to do so.

LEGAL SERVICES

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

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

MEMORANDUM

February 25, 2004

SUBJECT: Alaska Pioneers' and Veterans' Homes (CSSB 301())
(Work Order No. 23-GS2085\D)

TO: Senator Fred Dyson
Attn: Jason

FROM: Jean M. Mischel
Legislative Counsel

You have asked for a summary of the changes made to the above-referenced bill in this version. In addition to minor technical changes made in conformance with the 2003 Manual of Legislative Drafting, the following changes have been made.

Title. The phrase "relating to the eligibility of residents of the Alaska Pioneers' Home and the Alaska Veterans' Home for general relief assistance" was added.

Section 24. In AS 47.55.900(4), "AS 47.25.430(a)" was substituted for "AS 47.25.430".

Section 25(a). AS 44.29.400 was added to be repealed.

Section 25(b). Sections 1-4 and secs. 6-7 of ch. 4, SSSLA 2002 were deleted from this repeal provision since those sections are repealed and reenacted in other sections of the bill. The repeal as previously drafted, would have taken the affected codified sections back to a pre-2002 state. A discussion with the Department of Law clarified that the deleted repealed sections were not intended to be included in this section.

Section 25(c). Added a repeal provision for secs. 50 and 51 of HB 447 (Revisor's Bill) so that sec. 25 of the Revisor's Bill amending AS 44.29.520 (pertaining to Advisory Board membership) would be enacted without regard to an agreement that apparently has not and is not expected to come to pass.

Remaining sections were renumbered accordingly.

If I may be of further assistance, let me know.

JMM:mdr
04-068.mdr

LEGAL SERVICES

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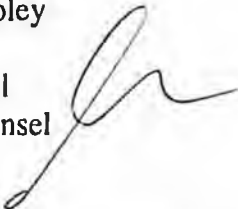
MEMORANDUM

February 27, 2004

SUBJECT: Pioneers' and Veterans' Homes (SB 301)

TO: Senator Fred Dyson
Attn: Jason Hooley

FROM: Jean M. Mischel
Legislative Counsel



Enclosed is a blank CS establishing what can be described as a moratorium on conversion of a Pioneers' Home to a Veterans' Home except for the Pioneers' Home in Palmer.

In sec. 15 of the bill, as amended by this CS, the state is required to maintain facilities known as the Alaska Pioneers' Home and is authorized to maintain facilities known as the Alaska Veterans' Home. You have also asked that a sentence be added saying, "The only home that may be converted to a Veterans' Home is the Pioneers' Home located in Palmer, Alaska." Since this section does not refer to a "conversion" that word has been substituted with "maintained" and the word "home" was modified by the word "Pioneers'."

You should be aware that the special treatment of the Pioneers' Home in Palmer will subject the bill to challenge on equal protection grounds and on the ground that it is local and special legislation because it applies to only one location in the state. An overview of those grounds follows though it is impossible to predict, without knowing the basis for the special treatment, whether a court will uphold the bill as written in this draft.

Equal Protection.

The Alaska Constitution¹ ensures equal treatment for all similarly situated persons in the equal protection clause of Article I, sec. 1 (Inherent Rights Section), Constitution of the State of Alaska. Equal protection under Article I, sec. 1 of the Alaska Constitution²

¹ Because Alaska's equal protection standards are more stringent than the federal constitutional standard, any statute which passes muster under Alaskan law will also survive the equal protection clause of the United States Constitution. Herrick's Aero-Aqua Repair v. Department of Transportation, 754 P.2d 1111, 1114 (Alaska 1988). Thus this memorandum does not discuss equal protection under the United States Constitution.

² Article I, sec. 1, Constitution of the State of Alaska states (emphasis added):

requires that similarly situated persons be treated equally and that classifications created by government that result in different treatment of persons be reasonable. Weidner v. State, Department of Transportation and Public Facilities, 860 P.2d 1205 (Alaska 1993); Ketchikan Gateway Borough, Alaska v. Breed, 639 P.2d 995 (Alaska 1981). Under the equal protection clause, the Alaska courts apply a sliding scale under which the applicable standard of review is determined by the importance of the individual rights at issue and by the nature of the classification scheme. As the right asserted becomes more fundamental or the classification scheme becomes more constitutionally suspect, the challenged law is subjected to more rigorous scrutiny at a more elevated position on the sliding scale. And, as the level of scrutiny increases, the asserted governmental interests must be more compelling and the legislation's means-to-ends fit must be correspondingly closer. If less scrutiny is required, less important governmental objectives will be sufficient and a greater degree of under inclusiveness or over inclusiveness in the means to ends fit will be tolerated. State, Department of Revenue v. Cosio, 858 P.2d 621 (Alaska 1993); State v. Ostrosky, 667 P.2d 1184, 1191 (Alaska 1983), appeal dismissed Ostrosky v. Alaska, 467 U.S. 1201, 81 L. Ed. 2d 339, 104 S. Ct. 2379 (1984).

At the low end of the equal protection spectrum, the Alaska Constitution requires only that legislation affecting economic rights, such as the right to a permit for commercial fishing (Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976)), have a legitimate purpose and that there be a fair and substantial relationship between the purpose and means chosen to achieve the purpose in order to satisfy equal protection. Chiropractors for Justice v. State, 895 P.2d 962 (Alaska 1995). With this relaxed level of scrutiny, a less important governmental objective will suffice and a greater degree of over or under inclusiveness in the means-to-end fit will be acceptable. At a minimum, this level of scrutiny requires that the legislation be based on a legitimate public purpose and that the classification be reasonable not arbitrary and rest upon some ground of difference having a fair and substantial relationship to the object of the legislation. Katmailand v. Lake and Peviasula Borough, 904 P.2d 397 (Alaska 1995). The Alaska Supreme Court has invalidated relatively few legislative enactments under the fair and substantial relationship standard. Gilman v. Martin, 662 P.2d 120 (Alaska 1983); Turner Construction Co., Inc. v. Scales, 752 P.2d 467 (Alaska 1988); and Gilmore v. Alaska Workers' Compensation Board, 882 P.2d 922 (Alaska 1994).

Local or Special Legislation.

Inherent Rights. This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

Under Article II, sec. 19, of the Alaska Constitution, the legislature is prohibited from enacting local or special legislation. Article II, section 19 of the Alaska Constitution provides in part:

The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination.

The test employed by the Alaska Supreme Court under Article II, sec. 19 is substantially the same as that applied under equal protection analysis. Upon examining the legislative goals and the means used to advance them, the court determines whether the legislation bears a fair and substantial relationship to a legitimate state purpose. State v. Lewis, 559 P.2d 630, 643 (Alaska 1977), cert. denied, 432 US 901 (1977). To satisfy the fair and substantial relationship standard, the classification established by the legislation must be tailored to the purpose of the legislation. The classification must be neither over inclusive nor under inclusive. Isakson v. Rickey, 550 P.2d 350, 362 (Alaska 1976). If the "fair and substantial relationship" standard is met, the bill will not be invalidated because of incidental local or private advantages. Lewis, 559 P.2d at 643. In Lewis, the court agreed that an Act of statewide significance need not have an effect in all parts of the state; legislation does not become "local" merely because it operates only on a limited number of geographical areas rather than on a statewide geographical basis. The Lewis case involved the Cook Inlet land exchange and the court accepted the premise that the land exchange, while only affecting land in Southcentral Alaska, required legislation to be accomplished and was of statewide significance. The court relied heavily on the record developed by the legislature in support of the need for the land exchange and the decision to resolve serious issues surrounding Native land selections under the Alaska Native Claims Settlement Act through legislation authorizing the Cook Inlet land exchange.

In a case where a violation of Article II, sec. 19 was found, the court said that legislation establishing the Eagle River Borough was special and peculiar to the locality where the borough was established. Since there was nothing in the nature of the Eagle River-Chugiak area that justified a departure from the general law scheme for the establishment of boroughs, the Act violated sec. 19. Abrams v. State, 534 P.2d 91 (Alaska 1975).

CS SB 301(), version H.

The proposed bill provides for the establishment of a moratorium on maintenance of a Pioneers' Home as a Veterans' Home except for the home in Palmer. Whether a moratorium on new Pioneer/Veteran Home conversions bears a "fair and substantial" relationship to a legitimate governmental purpose is the critical issue.

In order to establish the necessary relationship between the moratorium and a governmental purpose of the bill, it will be important for the legislature to identify the problem that it is trying to address and to document in the legislative history that the approach taken by the bill is reasonably tailored to address that problem. It would be

Senator Fred Dyson
February 27, 2004
Page 4

helpful in supporting the bill, if the legislature could establish that the problem to be addressed by the bill is a problem unique to Palmer and that conversions of other Pioneers' Homes in other parts of the state would not be necessary, or would be counterproductive, or otherwise conflict with an interest of the state.

If the legislature relies on such testimony and evidence contained in the legislative history in deciding to limit the application of parts of the bill to a particular home in Palmer, then the fair and substantial relationship between the means and ends of the bill could be established by the evidence before the legislature. Such testimony would also support the conclusion that new Pioneers' Home conversions is "a matter which is unique, but of statewide concern" (Lewis, 559 P.2d at 643) and not local legislation, thus potentially avoiding the local and special legislation issue altogether.

However, the question of whether general legislation could be made applicable to the situation presented to the legislature remains a question "subject to judicial determination" under the Alaska Constitution.

* * *

If I may be of further assistance, please advise.

JMM:med
04-244.med

Enclosure

23-GS2085\I
Mischel
3/1/04

CS FOR SENATE BILL NO. 301()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Pioneers' Home and the Alaska Veterans' Home; relating**
2 **to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home;**
3 **relating to the eligibility of residents for the Alaska Pioneers' Home and the Alaska**
4 **Veterans' Home for general relief assistance; relating to state veterans' home facilities;**
5 **making conforming amendments; and providing for an effective date."**

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

7 *** Section 1.** AS 08.68.395(g)(2) is amended to read:

8 (2) "health care facility" means a private, municipal, state, or federal
9 hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney
10 disease treatment center (excluding freestanding hemodialysis units), intermediate care
11 facility, or Alaska Pioneers' Home or Alaska Veterans' Home administered by the
12 Department of Health and Social Services [ADMINISTRATION] under AS 47.55.

13 *** Sec. 2.** AS 15.05.020 is amended to read:

1 **Sec. 15.05.020. Rules for determining residence of voter.** For the purpose
2 of determining residence for voting, the place of residence is governed by the
3 following rules:

4 (1) A person may not be considered to have gained a residence solely
5 by reason of presence nor may a person lose it solely by reason of absence while in the
6 civil or military service of this state or of the United States or of absence because of
7 marriage to a person engaged in the civil or military service of this state or the United
8 States, while a student at an institution of learning, while in an institution or asylum at
9 public expense, while confined in public prison, while engaged in the navigation of
10 waters of this state [,] or the United States or of the high seas, while residing upon an
11 Indian or military reservation, or while residing in the Alaska Pioneers' Home or the
12 Alaska Veterans' Home.

13 (2) The residence of a person is that place in which the person's
14 habitation is fixed, and to which, whenever absent, the person has the intention to
15 return. If a person resides in one place, but does business in another, the former is the
16 person's place of residence. Temporary construction camps do not constitute a
17 dwelling place.

18 (3) A change of residence is made only by the act of removal joined
19 with the intent to remain in another place. There can only be one residence.

20 (4) A person does not lose residence if the person leaves home and
21 goes to another country, state, or place in this state for temporary purposes only and
22 with the intent of returning.

23 (5) A person does not gain residence in any place to which the person
24 comes without the present intention to establish a permanent dwelling at that place.

25 (6) A person loses residence in this state if the person votes in another
26 state's election, either in person or by absentee ballot, and will not be eligible to vote
27 in this state until again qualifying under AS 15.05.010.

28 (7) [REPEALED]

29 (8)] The term of residence is computed by including the day on which
30 the person's residence begins and excluding the day of election.

31 ~~(8)~~ [(9) REPEALED]

1 (10)] The address of a voter as it appears on an official voter
2 registration card is presumptive evidence of the person's voting residence. This
3 presumption is negated only by the voter's [VOTER] notifying the director in writing
4 of a change of voting residence.

5 * Sec. 3. AS 17.37.070(6) is amended to read:

6 (6) "facility monitored by the department or the Department of
7 Administration" means an institution, building, office, or home operated by the
8 department or the Department of Administration, funded by the department or the
9 Department of Administration, under contract with the department or the Department
10 of Administration, inspected by the department or the Department of Administration,
11 designated by the department or the Department of Administration, or licensed by the
12 department or the Department of Administration, for the care of

13 (A) juveniles; for the purposes of this subparagraph,
14 "institution" includes a foster home and a group home, and a juvenile detention
15 facility, a juvenile detention home, a juvenile work camp, and a treatment
16 facility, as those terms are defined in AS 47.14.990;

17 (B) the elderly; for the purposes of this subparagraph,
18 "institution" includes

19 (i) an assisted living home as defined in AS 47.33.990; and

20 (ii) the Alaska [A] Pioneers' Home or the Alaska Veterans'
21 Home, operated under AS 47.55;

22 (C) the mentally ill; for the purposes of this subparagraph,
23 "institution" includes a designated treatment facility and an evaluation facility,
24 as those terms are defined in AS 47.30.915;

25 * Sec. 4. AS 18.07.111(8) is amended to read:

26 (8) "health care facility" means a private, municipal, state, or federal
27 hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney
28 disease treatment center (including freestanding hemodialysis units), intermediate care
29 facility, and ambulatory surgical facility; the term excludes

30 (A) the [AN] Alaska Pioneers' Home and the Alaska
31 Veterans' Home administered by the Department of Health and Social

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Services [ADMINISTRATION] under [AS 44.21.02(9) AND] AS 47.55; and

(B) the offices of private physicians or dentists whether in individual or group practice;

* Sec. 5. AS 18.35.300 is amended to read:

Sec. 18.35.300. Places where smoking is regulated. Smoking in any form is a nuisance and a public health hazard and is prohibited in the following vehicles and indoor places, except as allowed under AS 18.35.310:

(1) a vehicle of public transportation and a waiting, baggage, or boarding area for a vehicle of public transportation, including a bus, ferry vessel, train, limousine for hire, taxicab, or scheduled interstate or intrastate aircraft flight when consistent with federal law;

(2) a place of employment, a building or other structure, or a portion of them, owned, leased, or operated by the state or a political subdivision of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation;

(3) a public or private postsecondary educational institution or adult day care facility;

(4) a courtroom or jury deliberation room;

(5) a room, chamber, or other place under the control of the state senate or state house of representatives while a public meeting or public assembly is not in progress;

(6) a nursing home, rest home, or other residential health care institution or facility, or a public or private office or facility that is engaged primarily in providing mental health services;

(7) a food service establishment that has a seating capacity of at least 50 persons;

(8) a grocery store or other store maintained primarily for the retail sale of food products;

(9) a place of employment in which the owner, manager, proprietor, or other person who has control of the premises posts a sign stating that smoking is prohibited by law;

1 (10) a correctional facility; and

2 (11) the Alaska [A] Pioneers' Home or the Alaska Veterans' Home.

3 * **Sec. 6.** AS 36.30.990(1) is amended to read:

4 (1) "agency"

5 (A) means a department, institution, board, commission,
6 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska
7 Veterans' Home, or other administrative unit of the executive branch of state
8 government;

9 (B) does not include

10 (i) the University of Alaska;

11 (ii) the Alaska Railroad Corporation;

12 (iii) the Alaska Housing Finance Corporation;

13 (iv) a regional Native housing authority created under
14 AS 18.55.996 or a regional electrical authority created under
15 AS 18.57.020;

16 (v) the Department of Transportation and Public
17 Facilities, in regard to the repair, maintenance, and reconstruction of
18 vessels, docking facilities, and passenger and vehicle transfer facilities
19 of the Alaska marine highway system;

20 (vi) the Alaska Aerospace Development Corporation;

21 (vii) the Alaska State Pension Investment Board;

22 (viii) the Alaska Seafood Marketing Institute;

23 * **Sec. 7.** AS 37.05.146(c)(31) is amended to read:

24 (31) Alaska Pioneers' Home and Alaska Veterans' Home care and
25 support receipts under AS 47.55.030;

26 * **Sec. 8.** AS 37.05.990(2) is amended to read:

27 (2) "state agency," "agency," "department," or similar term means a
28 department, office, institution, board, commission, bureau, division, or other
29 administrative unit forming the state government, and includes the Alaska Pioneers'
30 Home, the Alaska Veterans' Home, and the University of Alaska.

31 * **Sec. 9.** AS 37.07.120(1) is amended to read:

1 (1) "agency" means a department, officer, institution, board,
2 commission, bureau, division, or other administrative unit forming the state
3 government and includes the Alaska Pioneers' Home, the Alaska Veterans' Home,
4 and the University of Alaska, but does not include the legislature or the judiciary;

5 * **Sec. 10.** AS 39.25.120(c)(8) is amended to read:

6 (8) Alaska Pioneers' Home and Alaska Veterans' Home managers;

7 * **Sec. 11.** AS 44.29.020(a)(16) is amended to read:

8 (16) the Alaska Pioneers' Home and the Alaska Veterans' Home
9 [HOMES];

10 * **Sec. 12.** AS 47.25.140 is amended to read

11 **Sec. 47.25.140. Residents of public institutions.** Payment under
12 AS 47.25.120 - 47.25.300 may not be made to or on [IN] behalf of an individual who
13 is a resident of a [THE ALASKA PIONEERS' HOME OR OTHER] public institution,
14 except as a patient in a public medical institution, or an individual who is a patient in a
15 public or private institution for tuberculosis or mental disease. A resident of a [THE
16 ALASKA PIONEERS' HOME OR OTHER] public institution who is otherwise
17 eligible to receive an allowance under AS 47.25.120 - 47.25.300 may apply for the
18 allowance instead of the support and maintenance provided in the [HOME OR] public
19 institution.

20 * **Sec. 13.** AS 47.25.140 is amended by adding a new subsection to read:

21 (b) In this section, "public institution" does not include the Alaska Pioneers'
22 Home or the Alaska Veterans' Home.

23 * **Sec. 14.** AS 47.45.240(c) is amended to read:

24 (c) The commission may not investigate, review, or undertake any
25 responsibility for the longevity bonus program under AS 47.45.010 - 47.45.160 or the
26 Alaska Pioneers' Home or Alaska Veterans' Home [HOMES] under AS 47.55.

27 * **Sec. 15.** AS 47.55.010 is repealed and reenacted to read:

28 **Sec. 47.55.010. Maintenance of Alaska Pioneers' Home and Alaska**
29 **Veterans' Home.** (a) The state shall maintain facilities known as the Alaska
30 Pioneers' Home at sites designated by the commissioner of health and social services.
31 The state may maintain one or more facilities known as the Alaska Veterans' Home at

1 sites designated by the commissioner of health and social services. The only Pioneers'
2 Home that may be maintained as a Veterans' Home is the Pioneer's Home located in
3 Palmer, Alaska. The Alaska Pioneers' Home and the Alaska Veterans' Home shall be
4 collectively administered by the Department of Health and Social Services as the
5 Alaska Pioneers' Home and Alaska Veterans' Home.

6 (b) The department shall formulate general policies for the homes designated
7 under (a) of this section. It may hold hearings and subpoena witnesses and documents
8 and may administer oaths in connection with the homes.

9 (c) The department shall

10 (1) cooperate with the federal government in matters pertaining to the
11 welfare of Alaska pioneers and of veterans who reside in the homes operated under
12 this chapter, make the reports in the form and containing the information the federal
13 government from time to time desires, and accept money allotted by the federal
14 government, its agencies, or its instrumentalities in establishing, extending, and
15 strengthening services for pioneers and veterans who reside in a home operated under
16 this chapter;

17 (2) adopt regulations necessary to conduct business and to carry out
18 the provisions of this chapter, require bonds and undertakings from persons employed
19 by a home as in its judgment are necessary, and pay the premiums on them, and
20 establish regional and local offices and the advisory groups that are necessary or
21 considered expedient to carry out or assist in carrying out a duty or authority assigned
22 to it;

23 (3) perform all executive or administrative duties necessary and
24 advisable to carry out the purpose of this chapter, including the power to make
25 contracts and to make disbursements on vouchers against appropriations for the
26 purpose of this chapter, within the limit of appropriations available;

27 (4) study the needs of pioneers and veterans of this state who reside in
28 the homes operated under this chapter and submit recommendations for new
29 regulations and proposed legislation.

30 (d) The department may employ the necessary subordinate officers and
31 employees, and shall prescribe methods for operation of the homes, standards of care

1 and service to home residents, and rules governing personnel. The methods for
2 operation and standards of care and services to residents prescribed under this
3 subsection shall be the same as the methods for operation and standards of care
4 established by the department for an assisted living home licensed under AS 47.33.

5 (e) The department may engage in activities directed to increase revenue from
6 a home. These activities may include the lease of excess bed or floor space or lease of
7 space or buildings that are not in use or are underutilized.

8 * **Sec. 16.** AS 47.55.020 is repealed and reenacted to read:

9 **Sec. 47.55.020. Admission to a home.** (a) Every person residing in the state
10 who is 65 years of age or older, has been a resident of the state continuously for more
11 than one year immediately preceding application for admission, and is in need of
12 residence at a home because of physical disability or other reason, is eligible for
13 admission to the Alaska Pioneers' Home or the Alaska Veterans' Home under
14 conditions prescribed in regulations. The spouse of a person who is eligible for
15 admission under other provisions of this subsection is also eligible for admission to a
16 home under conditions prescribed by the department if the spouse is 65 years of age or
17 older and has been a resident of the state continuously for more than one year
18 immediately preceding application for admission.

19 (b) Every person admitted to a home who receives income from any source in
20 excess of \$100 a month shall be required by the department to pay the excess to the
21 department immediately upon receipt of the money in payment, or part payment, of
22 the cost of the person's care. However, the department may not require in any month
23 the payment of an amount greater than the monthly rate set under AS 47.55.030(b)
24 except to satisfy indebtedness incurred under AS 47.55.070. The department may not
25 evict a person from a home if the income and assets of the person are insufficient to
26 pay the monthly rate set under AS 47.55.030(b) and the person is otherwise in
27 compliance with requirements under this chapter.

28 (c) At the end of each month, the payments made under (b) of this section
29 shall be transmitted to the commissioner of revenue. The department may pay the sum
30 of \$100 a month to a resident without money.

31 (d) Notwithstanding AS 47.55.070 and (b) of this section, a resident of a home

1 whose income, assets, and other resources are insufficient to pay the monthly rate set
2 under AS 47.55.030(b), and who does not have private insurance to cover the cost of
3 care, qualifies for payment assistance if the resident is otherwise in compliance with
4 requirements under this chapter. The amount of payment assistance equals the amount
5 needed, when added to other income and assets of the resident, to pay the monthly rate
6 set under AS 47.55.030(b). Payment assistance received by a home resident is a debt
7 to the state. In determining the amount of payment assistance for which a home
8 resident qualifies, the following income, assets, and other resources of the resident
9 shall be disregarded:

10 (1) income from any source in an amount up to \$100 a month as
11 established by the department by regulation;

12 (2) the following assets received under 43 U.S.C. 1601 - 1629g
13 (Alaska Native Claims Settlement Act):

14 (A) cash dividends and other income equal to at least \$2,000 as
15 established by the department by regulation;

16 (B) stock

17 (C) noncash dividends from stock; and

18 (D) land;

19 (3) a permanent fund dividend issued under AS 43.23;

20 (4) compensation to volunteers under the federal retired and senior
21 volunteers (42 U.S.C. 5001), foster grandparents (42 U.S.C. 5011), and senior
22 companion (42 U.S.C. 5013) programs made in accordance with 42 U.S.C. 5044(f);

23 (5) federal World War II restitution payments made under 50 U.S.C.
24 App. 1989b-4 and c-5;

25 (6) payments under AS 18.67 (Violent Crimes Compensation Board);

26 (7) an amount, determined by the department by regulation, that is
27 sufficient for burial expenses of the resident, the resident's spouse, and dependents of
28 the resident;

29 (8) real property being used as the primary residence of the resident's
30 spouse or a dependent of the resident;

31 (9) other real or personal property equal to at least a total value of

1 \$5,000 as established by the department by regulation.

2 (e) As a condition for receipt of payment assistance under (d) of this section,
3 the department, under regulations adopted by the department, may require a person to
4 apply for other state or federally sponsored programs that may reduce the amount of
5 the payment assistance.

6 * **Sec. 17.** AS 47.55.030(a) is amended to read:

7 (a) A person eligible for admission under AS 47.55.020 may, on application,
8 be admitted to the Alaska Pioneers' Home or the Alaska Veterans' Home [HOME]
9 upon the person's agreement to pay to the state each month an amount the department
10 [DEPARTMENT OF HEALTH AND SOCIAL SERVICES] considers sufficient to
11 compensate the state for the cost of care and support of the person at the home. When
12 this agreement is entered into, the department [DEPARTMENT OF HEALTH AND
13 SOCIAL SERVICES] may require security for the payments.

14 * **Sec. 18.** AS 47.55.030(c) is amended to read:

15 (c) The department [DEPARTMENT OF HEALTH AND SOCIAL
16 SERVICES] shall provide to all residents of the homes [PIONEERS' HOME] written
17 notice of any proposed change in the rate charged for care and support of persons at
18 the homes [HOME]. Notice under this section shall be given not less than 60 days
19 before a change is adopted. The notice must include the time, date, and place of a
20 hearing to be held by the department [DEPARTMENT OF HEALTH AND SOCIAL
21 SERVICES] under (d) of this section. The department may not change the rate
22 charged more than once in a fiscal year.

23 * **Sec. 19.** AS 47.55.040 is amended to read:

24 **Sec. 47.55.040. Transfer of mentally ill residents to an [ANOTHER]**
25 **institution.** A person regularly admitted into the Alaska Pioneers' Home or the
26 Alaska Veterans' Home [HOME] who is found to be insane may be transferred to an
27 institution provided for the care and custody of insane persons for the state in the
28 manner provided by law for the admission of other persons to the institution.

29 * **Sec. 20.** AS 47.55.050 is amended to read:

30 **Sec. 47.55.050. Maintenance funds.** The legislature shall, each session,
31 appropriate the necessary funds for the maintenance of the Alaska Pioneers' Home

1 and the Alaska Veterans' Home [HOME] to be expended by the department
2 [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], and the [THAT]
3 department may receive funds, donations, and bequests from private individuals,
4 societies, or organizations, and funds from the federal government for the support and
5 maintenance of the homes [HOME].

6 * **Sec. 21.** AS 47.55.060 is amended to read:

7 **Sec. 47.55.060. Trust fund.** Unless otherwise provided by the donor, money
8 bequeathed to the Alaska Pioneers' Home or the Alaska Veterans' Home constitutes
9 a special trust fund. Unless otherwise provided by the donor, interest from the special
10 trust fund is under the control and at the disposal of the department [DEPARTMENT
11 OF HEALTH AND SOCIAL SERVICES], and expenditure from it is limited to the
12 benefit and comfort of the residents of the homes [HOME].

13 * **Sec. 22.** AS 47.55.070 is repealed and reenacted to read:

14 **Sec. 47.55.070. Indebtedness of Alaska Pioneers' Home or Alaska**
15 **Veterans' Home resident to state.** The following expenses incurred for an Alaska
16 Pioneers' Home or Alaska Veterans' Home resident under this chapter and not
17 recoverable from a collateral source are a debt of the resident to the state and may be
18 recovered during the life of the resident:

19 (1) costs of standard or nursing care provided in the home each month
20 to the resident not exceeding the rate established by the department under
21 AS 47.55.030, with credit given for any amounts paid by or collected from the
22 resident;

23 (2) allowances paid under AS 47.55.020(c);

24 (3) arrearages in fees for television and telephone services provided in
25 the home; and

26 (4) prescription medicine.

27 * **Sec. 23.** AS 47.55.095 is amended to read:

28 **Sec. 47.55.095. Limitation on enforcement of claims against estate.**
29 Notwithstanding AS 47.55.080 and 47.55.090, upon the death of an Alaska [A]
30 Pioneers' Home or Alaska Veterans' Home resident or of a recipient of day care or
31 respite services, a state claim for unpaid debt owed to the home [PIONEERS' HOME]

1 may be satisfied only out of the decedent's estate. The state may not pursue a claim to
2 the extent doing so would work undue hardship, as determined by the department by
3 regulation [OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES], on
4 the surviving spouse or dependent of the decedent. Family portraits and heirlooms of
5 the type identified under AS 09.38.020(a)(3), without regard to value, may not be
6 taken by the state in satisfaction of a debt to the home [PIONEERS' HOME].

7 * Sec. 24. AS 47.55 is amended by adding a new section to read:

8 **Sec. 47.55.900. Definitions.** In this chapter, unless the context otherwise
9 requires,

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

11 (2) "home" means

12 (A) the Alaska Pioneers' Home; or

13 (B) the Alaska Veterans' Home;

14 (3) "physical disability or other reason" means inability of an
15 individual to maintain a household without regular assistance in shopping,
16 housekeeping, meal preparation, dressing, or personal hygiene because of physical or
17 medical impairment, infirmity, or disability;

18 (4) "resident of the state" has the meaning given "resident" in
19 AS 47.25.430(a);

20 (5) "veteran" means a person who has been discharged from the armed
21 forces of the United States, including the Alaska National Guard or the Alaska
22 Territorial Guard; the discharge from the armed forces must be other than
23 dishonorable.

24 * Sec. 25. (a) AS 44.29.020(a)(17) and 44.29.400 are repealed.

25 (b) Sections 5 and 8 - 15, ch. 4, SSSLA 2002, as those sections are amended
26 by a version of HB 447, if HB 447 is passed by the Second Session of the Twenty-
27 Third Alaska State Legislature and enacted into law, are repealed.

28 (c) Sections 50 and 51 of HB 447 or the equivalent bill sections of a later
29 version of HB 447, if passed by the Second Session of the Twenty-Third Alaska State
30 Legislature and enacted into law, are repealed.

31 * Sec. 26. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITION: STATUS OF CERTAIN RESIDENTS OF THE ALASKA
3 PIONEERS' HOME OR THE ALASKA VETERANS' HOME. (a) If a resident of an Alaska
4 Pioneers' Home facility or Alaska Veterans' Home facility was admitted to the facility before
5 the Department of Health and Social Services received the United States Veterans
6 Administration certification for the Alaska Veterans' Home to begin receiving per diem
7 payments for eligible veterans, the resident may not be evicted or required to relocate to a
8 different Alaska Pioneers' Home or Alaska Veterans' Home facility solely because of that
9 certification.

10 (b) The commissioner of the health and social services shall promptly post on the
11 Alaska Online Public Notice System (AS 44.62.175) the date that the certification described
12 in (a) of this section was received.

13 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 TRANSITION: REGULATIONS. The Department of Health and Social Services
16 and other state agencies affected by this Act may immediately proceed to adopt regulations
17 necessary to implement the changes made by this Act. The regulations take effect under
18 AS 44.62 (Administrative Procedure Act), but not before the effective date of the respective
19 statutory changes.

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

22 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
23 heading of AS 47.55 from "Pioneers' Home" to "Alaska Pioneers' Home and Alaska Veterans'
24 Home."

25 * **Sec. 29.** Section 27 of this Act takes effect immediately under AS 01.10.070(c).

26 * **Sec. 30.** Except as provided in sec. 29 of this Act, this Act takes effect July 1, 2004.



Health, Education, and Social Services Committee Alaska State Senate

Letter of Intent

It is the intent of the legislature in passing Senate Bill 301 relating to an Alaskan Veterans Home that the Department of Health and Social Services will convert the Palmer Pioneers' Home to be a state veterans' home approved by the US Department of Veterans Affairs. After the conversion, the department should continue to maintain a Pioneers' Home waiting list for the Palmer Home. It is the intent of the legislature that the home will provide 75% of the resident capacity for veterans and 25% of the resident capacity for others selected from the Pioneer's Home waiting list.

The legislature encourages the department to actively work to fill all vacant beds using the current Pioneers' Home waiting list prior to certification of the Home as a state veterans' home.

Amendments to SB 301

Amendment #1

Page 6, line 28,
Delete: "may"
Insert: "shall"

Amendment #2

Page 6, line 31, following "social services.",
Insert: "The only home that may be converted to a veterans home is the
Pioneers' Home located in Palmer."

Amendment # 3

Page 8, line 4,
Delete: "or the sale"

Amendment # 4

Page 12, line 20 and 21
Delete: "with 181 days or more of"
Insert: "from"

Amendment # 5

Page 12, line 22
Delete: "and AS 47.55.035 are"
Insert: "is"

Amendment # 6

Page 9, line 19
Delete "(4) veterans' benefits paid under 38 U.S.C. 1110;"
Renummer sections

Amendment # 7

Page 12, line 20
Delete "honorably"
Line 23, after "Guard." Add "The discharge must be other than Dishonorable."

A M E N D M E N T

OFFERED IN THE SENATE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE
TO: SB 301

BY _____

1 Page 12, line 22, following "AS 44.29.020(a)(17)":

2 Insert ", 44.29.400;"

3

4 Page 12, line 23, following "2002":

5 Insert ", as any of those sections are amended by a bill passed by the Second Session of
6 the Twenty-Third Alaska State Legislature and enacted into law that implements changes
7 recommended by the revisor of statutes,"

8

9 Page 12, following line 23:

10 Insert the following new material:

11 . "(c) Sections 50 and 51 of an Act passed by the Second Session of the Twenty-Third
12 Alaska State Legislature implementing changes recommended by the revisor of statutes, which
13 provide for conditional effectiveness of and a conditional effective date for sec. 25 of that Act,
14 are repealed."

15

16 Page 13, following line 17:

17 Insert a new bill section to read:

18 "* Sec. 29. CONTINGENT EFFECT AND CONTINGENT EFFECTIVE DATE. (a) Section
19 25(c) of this Act takes effect only if a bill is passed by the Second Session of the Twenty-Third
20 Alaska State Legislature and is enacted into law that implements changes recommended by the
21 revisor of statutes.

1 (b) If sec. 25(c) of this Act takes effect under (a) of this section, it takes effect
2 immediately under AS 01.10.070(c) or on the effective date of the Act described in (a) of this
3 section implementing changes recommended by the revisor of statutes, whichever is later."

4

5 Renumber the following bill sections accordingly.

6

7 Page 13, line 19:

8 Delete "sec. 29"

9 Insert "secs. 29 and 30"

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/6/04

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3.2.04

Health, Education and Social Services Committee considered

SENATE BILL NO. 301

SB 301 PIONEERS' HOMES/VETERANS' HOMES

"An Act relating to the Alaska Pioneers' Home, and the Alaska Veterans' Home; relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home; relating to state veterans' home facilities; making conforming amendments; and providing for an effective date."

and recommends:

be replaced with _____ CS SB 301 (HES)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by HES Committee

further referral to _____ Committee

Senate Bill:

- Same Title
 New Title

House Bill:

- Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	1/2	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

SB

340

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

February 17, 2004

Honorable Fred Dyson, Chairman
Senate Health, Education and
Social Services Committee
Alaska State Capitol; Rm. 121
Juneau, AK 99801-1182

Dear Senator Dyson,

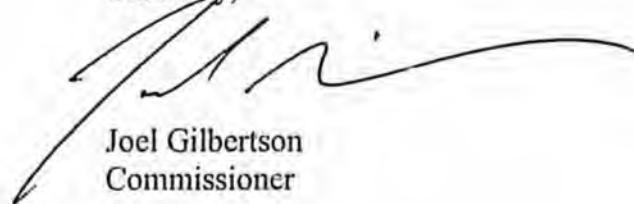
The Department of Health and Social Services respectfully requests a hearing in the Senate Health, Education, and Social Services Committee on Senate Bill 340 "An Act relating to the detention of delinquent minors in correctional facilities; relating to emergency detention of minors for evaluation for involuntary admission for mental health treatment; relating to detention of intoxicated minors incapacitated by alcohol or drugs; and providing for an effective date."

The purpose of this bill is to bring Alaska into compliance with recent revisions to the federal Juvenile Justice and Delinquency Act. Under the Act, emergency protective custody of juveniles may not include placement in a locked jail or youth facility. Failure to comply with this federal requirement jeopardizes receipt of approximately \$700,000 in federal funds that are a cornerstone of the department's juvenile justice program.

The Governor's transmittal letter and zero fiscal note relating to SB 340 are on file with the committee.

Your favorable consideration of this request will be appreciated.

Sincerely,



Joel Gilbertson
Commissioner

cc: Mike Tibbles, Director
Legislative Office, Office of the Governor
Patty Ware, Director, DJJ

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



SB340
P.O. Box 110001
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

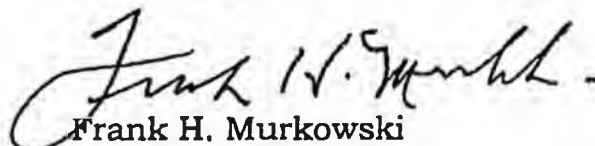
Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the detention of delinquent and other juveniles.

The 2002 reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJJPA) went into effect on October 1, 2003. The JJJPA has traditionally prohibited incarceration of non-offenders and status offenders in adult jails and "lock-ups." New language in the 2002 reauthorization prohibits the use of juvenile detention facilities for these non-offenders and status offenders as of October 1, 2003.

This bill would modify AS 47.12.240, AS 47.30.705, and AS 47.37.170 to come into compliance with the federal requirements set out in the Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2003. Under these amendments, emergency protective custody of minors may not include placement in a jail or other secure facility. This language is also found in current law relating to placement of children in need of aid in AS 47.10.141(c), and has been interpreted by both state and federal officials to provide sufficient flexibility for holding minors until a more appropriate facility can be found or until transportation to such a facility is feasible. The purpose of this draft bill is to preserve Alaska's federal formula grant receipts of approximately \$700,000 and to meet certain requirements to apply for other federal grant money through the federal office of juvenile justice and delinquency prevention.

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 340
 (S) Publish Date: 2/16/04
 Dept. Affected: Health & Social Services
 RDU Juvenile Justice
 Component Delinquency Prevention

Revision Date/Time (Note if correction):
 Title RELATING TO DETENTION OF JUVENILES

Sponsor (RLS) BY REQUEST OF THE GOVERNOR
 Requester _____

Component No. 248

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The proposed changes to statute will have no fiscal impact on the Division of Juvenile Justice. The proposed changes will put the state in compliance with the federal Juvenile Justice and Delinquency Act (JJDP) formula grant program.

Prepared by: Karen Forrest
 Division Juvenile Justice
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-2339
 Date/Time 02/11/2004
 Date 02/12/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 340
 (S) Publish Date: 2/16/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Juvenile Detention RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Rules Committee
 Requester Governor Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will amend AS 47.12.240, AS 47.30.705 and AS 47.37.170. The stated purpose of this bill is to preserve Alaska's federal formula grant receipts of approximately \$700,000 and to meet certain requirements to apply for other federal grant money. The bill, in essence, states that "emergency protective custody under these sections may not include placement of a minor in a jail or secure facility". The bill addresses minors who are taken into protective custody for mental health issues or those in protective custody due to intoxication because of drugs or alcohol.

The Department of Health and Social Service, Division of Juvenile Justice, has committed to supplying training and training materials to law enforcement officers to insure compliance with this statute.

There is no fiscal impact anticipated by the Department of Public Safety.

Prepared by: Lt. Al Storey Phone 269-4532
 Division Alaska State Troopers Date/Time 2/12/04 3:19 PM
 Approved by: Commissioner William Tandeske Date 2/12/2004
 Agency Department of Public Safety

SB 340 /HB 487 Relating to the Detention of Juveniles
Department of Health and Social Services
Division of Juvenile Justice- 2/20/04

Highlights related to the Proposed Legislation:

- ❖ Modifies AS 47.12.240, AS 47.30.705 and AS 47.37.170 to prohibit the placement of minors in a jail or secure facility who are in protective custody due to mental illness, grave disability, intoxication or incapacitation by alcohol or drugs.
- ❖ Required for DHSS/DJJ to be in compliance with the 2002 reauthorization of the federal Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA) that went into effect on October 1, 2003.
- ❖ Does not affect existing statutory provisions for the detention of minors for delinquent or "criminal-type" offenses described in AS 47.12.240. The emphasis is on ensuring that state statute comports with the federal requirements for not holding non-offenders in a locked facility when they have not committed a crime.

Background:

DHSS, DJJ receives approximately \$700,00 annually through the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) formula grant program. Funds are used to pay for a variety of services, including nonsecure shelters and prevention/intervention services for juveniles. States receiving JJDP funds must meet four core juvenile justice mandates. The mandates along with the actual numerical standards for "violations" are:

- a. Deinstitutionalization of status offenders and non-offenders: 5.7 per 100,000;
- b. Separation of juveniles from adult offenders in institutions: Zero (0);
- c. Removal of juveniles from adult jails and lockup facilities: 9.0 per 100,000;
- d. Reduction of disproportionate minority contact: no statistical de minimis.

Alaska is currently out of compliance with these standards at a fairly significant rate. Violation rates for the first three core mandates in FY02 and FY03 are as follows:

- a. Deinstitutionalization: FY02 at 47.70 and FY03 at 37.82;
- b. Separation from Adult offenders: FY02 at 21.35 and FY03 at 4.1; and,
- c. Jail Removal: FY02 at 68.08 and FY03 at 47.05.

Without passage of this legislation, the Department will lose 40% of the FFY2004 grant award, or \$280,000 in the first year and an additional 40% of the FFY2005 award, for a total anticipated loss of \$560.0 in federal grant funds.

If violations of the JJDP Act are incurred once the statute is changed, the argument can be made to OJJDP that all violations were in violation of existing state law, which is an allowable "exception" to the de minimum numerical standards for monitoring compliance with the JJDP Act.

The change in state statute is consistent with best practice, i.e. juveniles should not be held in a locked facility when they have not committed a crime.

The Division will continue to work with local and state law enforcement, as well as within this Department with the Division of Behavioral Health, to further develop the alternatives that will provide the appropriate response for these juveniles.

NON-SECURE SHELTER GRANTS

<u>Provider</u>	<u>Service Area</u>	<u># FY02 Clients</u>	<u># FY03 Clients</u>	<u>FY04 Awards*</u>
Fairbanks Native Association	Fairbanks	94	62	27,000
Juneau Youth Services	Juneau	39	19	15,000
Kenai Peninsula Community Care Center	Kenai Peninsula	178	163	50,000
Kodiak Youth Services Center	Kodiak	5	2	8,000
Residential Youth Care	Ketchikan	24	8	23,000
Valdez Counseling Center	Valdez	(no award)	0	6,000
Youth Advocates of Sitka	Sitka	19	15	12,000
North Slope Borough	Barrow	7	11	(no award)
Wrangell, City of	Wrangell	1	1	(no award)
Totals		367	281	141,000

*Funds purchase actual services and limited administrative costs only, so awards not fully expended when service is underutilized.

Working to establish or re-establish shelters in:
 Mat-Su Borough (provider agreement signed 1/04)
 Anchorage
 Barrow
 Wrangell
 Dillingham
 Emmonak
 Hooper Bay
 Kotzebue

updated 2/5/04

Subject: Committee Hearing on SB 340 - Detention of Minors

Date: Tue, 2 Mar 2004 14:17:50 -0900

From: "Schultz, Anne G." <Anne_Schultz@health.state.ak.us>

To: "Jason_Hooley@legis.state.ak.us" <Jason_Hooley@legis.state.ak.us>

Dear Jason:

Will you please pass on to Senate Health and Social Services Committee members the following message regarding SB 340?

Advisory Board members were able to visit with many legislators during their Juneau meeting last week. Their packets included their top five legislative priorities for this session. One of the bills they strongly support is SB 340. This issue has been a priority for board members for a number of years. They have asked that I reaffirm their support for this bill as you address it in committee on Wednesday, March 3 at 3:15 pm..

Thank you for your assistance. Including this message in members' meeting packets will be greatly appreciated.

Anne Schultz

Acting Executive Director

Advisory Board on Alcoholism and Drug Abuse

PO Box 110608

Juneau AK 99811 - 0608

(907) 465-5114 or 1-888-464-8920

Fax: (07) 465-4410

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/16/04

FURTHER: Judiciary

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3.03.04

Health, Education and Social Services Committee considered SENATE BILL NO. 340

SB 340 DETENTION OF MINORS

"An Act relating to the detention of delinquent minors in correctional facilities; relating to emergency detention of minors for evaluation for involuntary admission for mental health treatment; relating to detention of intoxicated minors and minors incapacitated by alcohol or drugs; and providing for an effective date."

and recommends:

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

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

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/11			X	1
DPS	2/12			X	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Lynda Green</i>	✓			
<i>Gary Wilber</i>	✓			
CHAIR: <i>Fred Dymally</i>	✓			

SB

364

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SB 364

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 5, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill related to the mental health treatment assistance program. The bill would give the Department of Health and Social Services additional tools to control costs. Costs would be controlled by limiting financial assistance to persons meeting the eligibility criteria after registration. Registration would require contacting the department in a timely manner and supplying information on medical and financial need. The department would also gain some flexibility to reduce rates when there is a shortfall of funds.

I urge your support of this important bill.

Sincerely yours,

Handwritten signature of Frank H. Murkowski in black ink.
Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version : SB 364
 (S) Publish Date: 3/8/04
 Dept. Affected: Health & Social Services
 RDU Behavioral Health
 Component Designated Eval & Treatment

Revision Date/Time (Note if correction):
 Title RELATING TO THE MENTAL HEALTH TREATMENT PROGRAM

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester _____ Component No. 1014

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
Miscellaneous						
TOTAL OPERATING	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)

Estimate of any current year (FY2004) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill will provide the Department with management tools necessary to contain costs for DET services on an annual basis. Changes to the eligibility requirements and time frames for applying for financial assistance will allow the department to better project and manage costs within the available funding levels. Current application timelines, i.e. 180 days after date of discharge results in bills for prior year service coming in the first six months of the current fiscal year. This lag makes it extremely difficult for program staff to project the level of funding available for current year program costs. (Continued on next page)

Prepared by: Bill Hogan, Director Phone 465-3371
 Division Behavioral Health Date/Time 02/05/2004
 Approved by: Joel S. Gilbertson, Commissioner Date 02/06/2004
 Agency Department of Health and Social Services

FISCAL NOTE

FN # 1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

SB 364

ANALYSIS CONTINUATION

DET program expenditures for the last few years have averaged \$500.0 more in general funds than the original budget. In past years, either a supplemental budget request has been appropriated or excess year-end funds within the appropriation were available to cover these additional costs. However, with FY04 budget reductions this is not an option. The program currently anticipates approximately \$500.0 in FY03 claims being received between July 1 - December 31, 2003 having to be paid out of its FY04 budget.

In FY2005 this program will lose federal receipts of \$724.9 (which are reflected in the Governor's budget) that have previously been available for program costs. With these compounding circumstances it is important to implement changes to allow for fiscal management of this program to stay within budgetary authorization. This bill will allow the department to cap payments to the funding levels available, rather than the current open-ended process.

Due to the FY04 and FY05 budget reductions the most that could be expected in FY05 general fund savings would be \$100.0. This represents approximately a 10% general fund reduction.

If these legislative changes are not made to the DET program, the only alternatives available to the department for this program would be requests for supplemental appropriations or to decline payment of the bill which could result in legal action.

SB 364 -- DET Bill Summary -- 3/18/04

Background/Intent

The existing statutes require the State to cover the costs of diagnosis, evaluation and treatment (DET) for financially eligible patients who need to be involuntarily committed to non-state-operated hospitals. The costs of these services and the related transportation cost have increased over the years. The intent of this bill is to:

- Establish that this is not an entitlement
- Clearly communicate that costs incurred will only be covered up to the amount appropriated by the legislature
- Require hospitals to notify the Department within 24 hours of admission of a potentially eligible individual, allowing the Department to assist in timely and appropriate discharge to community based programs
- Establish that the Department is under no obligation to pay for services a hospital delivers to a patient beyond recommended discharge date
- Funding is decreased between FY04 and FY05

Program Effects

- Contains costs on an annual basis
- 24-hour registration assists Department to determine costs at time they are incurred and thus allow for fiscal management
- Limit State responsibility to funds appropriated by legislature

Cost Progression 2000-2005

FY00	\$	1,901,480	
FY01		2,055,420	
FY02		2,284,930	
FY03		3,384,430	
FY 04 Budget		2,336,000	
FY 05 Budget		1,901,480	Strategies being explored to expand federal participation via DSH

Cost Saving Strategies

- Update transportation policies and procedures
 - Ambulances

DET Sites

- Fairbanks
- Juneau

DES Sites

Palmer, Ketchikan, Cordova, Homer, Valdez, Sitka,
Bethel, Kodiak

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: 0080-DHSS-DBH-02-06-04
 () Publish Date: _____
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): _____
 Title RELATING TO THE MENTAL HEALTH
TREATMENT PROGRAM

RDU Behavioral Health
 Component Designated Eval & Treatment

Sponsor (RLS) BY REQUEST OF THE
GOVERNOR

Requester _____ Component No. 1014

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
Miscellaneous						
TOTAL OPERATING	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will provide the Department with management tools necessary to contain costs for DET services on an annual basis. Changes to the eligibility requirements and time frames for applying for financial assistance will allow the department to better project and manage costs within the available funding levels. Current application timelines, i.e. 180 days after date of discharge results in bills for prior year service coming in the first six months of the current fiscal year. This lag makes it extremely difficult for program staff to project the level of funding available for current year program costs. (Continued on next page)

Prepared by: Bill Hoan, Director
 Division Behavioral Health
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-3371
 Date/Time 02/05/2004
 Date 02/06/2004

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

March 11, 2004

Honorable Fred Dyson, Chairman
Senate Health, Education and
Social Services Committee
Alaska State Capitol; Rm. 121
Juneau, AK 99801-1182

Dear Senator Dyson,

The Department of Health and Social Services respectfully requests a hearing in the Senate Health, Education, and Social Services Committee on Senate Bill 364 "An Act relating to liability for expenses of placement in certain mental health facilities; relating to the mental health treatment assistance program; and providing for an effective date."

The purpose of this bill is to provide the department with additional tools to contain costs in the Designated Evaluation and Treatment (DET) program. The bill will require hospitals that participate in this program to provide the department with more timely information on persons receiving services, thereby allowing the department to better control total program costs over the course of the year. The bill also makes it clear that the State's obligation to pay for these services is limited to the amount appropriated by the legislature for this purpose.

The Governor's transmittal letter and fiscal note relating to SB 364 are on file with the committee. A brief history of the DET program is attached.

Your favorable consideration of this request will be appreciated.

Sincerely,



Joel Gilbertson
Commissioner

Attachment

cc: Mike Tibbles, Director
Legislative Office
Office of the Governor

Bill Hogan, Director
Division of Behavioral Health



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Health & Social Services	DIVISION BH	BILL NUMBER LL 80	SPONSOR (RLS) BY REQUEST OF THE GOV
SHORT TITLE OF BILL RELATING TO THE MENTAL HEALTH TREATMENT PROGRAM			
DEPARTMENT POSITION Support--Bill Ready for Introduction			
PREPARED BY Shawnda Brooks	DATE 02/04/2004	COMMISSIONER'S SIGNATURE Joel S. Gilbertson	DATE 02/04/2004

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Unknown	CONSTITUENT GROUP(S) AFFECTED BY BILL Bartlett Regional Hospital; Fairbanks Memorial Hospital; API, etc.
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL Some of the service provider groups

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The existing statutes require the State to cover the costs of diagnosis, evaluation and treatment (DET) for financially eligible patients who need to be involuntarily committed to non-state-operated hospitals. The costs of these services and the related transportation costs have increased over the years. The intent of this bill is to 1) establish that this is not an entitlement service and 2) clearly communicate costs incurred will only be covered up to the amount appropriated by the legislature for this service, 3) require hospitals to notify the department within 24 hours of admission of a potentially eligible individual so that the Department can assist in timely and (continued on next page)

ANALYSIS OF BILL/PROGRAM EFFECTS

Passage of this bill will give the Department of Health and Social Services the tools it needs to contains costs for DET services on an annual basis. Requiring registration of the patient within 24 hours of admission assists the Department in determining what costs are being accrued at the time they are being incurred, thus ensuring that the program can be managed in a fiscally responsible manner. Additionally, it provides language to ensure that the state is responsible for paying for these services only to the extent that funding is appropriated for it by the legislature,

(continued on next page)

AMENDMENTS PROPOSED

BILL ANALYSIS

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. LL 80

Additional Comments

Background/Legislative Intent (continued)

appropriate discharge to a community based provider and 4) establish that the Department is under no obligation to pay for services a hospital delivers to a patient beyond a recommended discharge date. All of these changes are being put forward to enable the Department to ensure the needed services are provided to the extent possible with available funding, which is being decreased from FY04 to FY05.

Analysis of Bill/Program Effects (continued)

thus assuring that these services not be deemed an entitlement. Early passage of this bill would give the Department the statutory authority needed to implement these changes in FY04 to assist meeting an existing budget shortfall. Full benefit from these cost containment measures would be realized in FY05. The Department believes these changes can be made with minimum negative consequences for the clients being served because no patient will be moved to a lower level of care, unless it is medically appropriate and supports in the way of community based services are available. Passage of this bill may result in some of the hospitals incurring uncompensated care costs related to the delivery of DET services.

ATTACHMENT
DESIGNATED EVALUATION AND TREATMENT PROGRAM

Beginning in the late 1970s, the Designated Evaluation and Treatment Program provided funding on a fee-for-service basis to local community hospitals and specialty hospitals. This funding covered psychiatric inpatient care to certain persons, enabling them to receive care close to home and family. The population initially served by the program was anyone who did not have the means to pay the bill for hospital and related services. The budget, while limited, enabled the program to compensate hospitals for psychiatric inpatient care provided to "indigent" persons, without any further restrictions.

Growth in the program and increases in hospital rates pushed program costs beyond the available budget, and the first restriction was imposed. The program policy was changed to provide payment only for persons who were under civil commitment. A task force, appointed to resolve payment issues, recommended that the hospitals be paid at the Medicaid rate.

The Designated Evaluation and Treatment Program has become a vital part of the necessary array of community services that must be in place before the Alaska Psychiatric Institute can assume its role as the tertiary care facility for Alaska. It provides acute hospital psychiatric care treatment close to ones home community and support network.

In 1998, the federal government made funds available to assist low-income individuals in paying for evaluation and treatment services in designated mental health facilities. The funding was available through FY 01. During the 21st session of the Alaska State Legislature, Senate Bill 97 became law. It created the Mental Health Treatment Assistance Program (AS 47.31.005 – 47.31.100) and directed the department to adopt regulations to implement the program (after consulting with the Alaska Mental Health Trust Authority).

HB 535 -- DET Bill Summary -- 3/22/04

Background/Intent

The existing statutes require the State to cover the costs of diagnosis, evaluation and treatment (DET) for financially eligible patients who need to be involuntarily committed to non-state-operated hospitals. The costs of these services and the related transportation cost have increased over the years. The intent of this bill is to:

- Establish that this is not an entitlement
- Clearly communicate that costs incurred will only be covered up to the amount appropriated by the legislature
- Require hospitals to notify the Department within 24 hours of admission of a potentially eligible individual, allowing the Department to assist in timely and appropriate discharge to community based programs
- Establish that the Department is under no obligation to pay for services a hospital delivers to a patient beyond recommended discharge date
- Funding is decreased between FY04 and FY05

Program Effects

- Contains costs on an annual basis
- 24-hour registration assists Department to determine costs at time they are incurred and thus allow for fiscal management
- Limit State responsibility to funds appropriated by legislature

Cost Progression 2000-2005

FY00	\$	1,901,480	
FY01		2,055,420	
FY02		2,284,930	
FY03		3,384,430	
FY 04 Budget		2,336,000	
FY 05 Budget		1,901,480	Strategies being explored to expand federal participation via Disproportionate Share (DSH)

Cost Saving Strategies

- Update transportation policies and procedures
 - Ambulances

DET Sites

- Fairbanks
- Juneau

Other Sites

Palmer, Ketchikan, Cordova, Homer, Valdez, Sitka,
Bethel, Kodiak

Summary Of DES/T for FY00 to FY03

Clients Served in Fiscal Year

Region	Facility	FY00	FY01	FY02	FY03	→	
ARO	Providence Hospital		2	0	0	0	
ARO	North Star Hospital		0	0	2	0	
NRO	Fairbanks Memorial Hospital		127	185	207	178	
NRO	YKHC		6	6	2	0	
SCRO	Providence Kodiak Island Medical		12	9	0	1	
SCRO	Valdez Community Hospital		0	0	2	0	
SERO	Bartlett Memorial Hospital		44	68	65	57	
SERO	Ketchikan General Hospital		33	21	0	0	
SERO	Mt Edgecombe Hospital		2	1	8	8	
SERO	Petersburg General		0	1	0	0	
	Statewide		226	291	286	244	1047

Days of Evaluation and Treatment Services in Fiscal Year

Region	Facility	FY00	FY01	FY02	FY03	→	
ARO	Providence Hospital		6	0	0	0	
ARO	North Star Hospital		0	0	6	0	
NRO	Fairbanks Memorial Hospital		874	791	892	991	
NRO	YKHC		8	12	2	0	
SCRO	Providence Kodiak Island Medical		22	24	0	4	
SCRO	Valdez Community Hospital		0	0	6	0	
SERO	Bartlett Memorial Hospital		235	460	430	670	
SERO	Ketchikan General Hospital		59	33	0	0	
SERO	Mt Edgecombe Hospital		2	2	28	21	
SERO	Petersburg General		0	1	0	0	
	Statewide		1206	1323	1364	1686	5579

Average Length of Stay in Fiscal Year

Region	Facility	FY00	FY01	FY02	FY03	→	
ARO	Providence Hospital		3	0	0	0	
ARO	North Star Hospital		0	0	3	0	
NRO	Fairbanks Memorial Hospital		6.881889764	4.275675676	4.309178744	5.56741573	
NRO	YKHC		1.333333333	2	1	0	
SCRO	Providence Kodiak Island Medical		1.833333333	2.666666667	0	4	
SCRO	Valdez Community Hospital		0	0	3	0	
SERO	Bartlett Memorial Hospital		5.340909091	6.764705882	6.615384615	11.75438596	
SERO	Ketchikan General Hospital		1.787878788	1.571428571	0	0	
SERO	Mt Edgecombe Hospital		1	2	3.5	2.625	
SERO	Petersburg General		0	1	0	0	
	Statewide		3.025334901	2.696925257	3.57076056	5.986700424	3.86993

Cost of Services in Fiscal Year

Region	Facility	FY00	FY01	FY02	FY03
ARO	Providence Hospital	\$ 4,219.14	\$ -	\$ -	\$ -
ARO	North Star Hospital	\$ -	\$ -	\$ 11,827.47	\$ -
NRO	Fairbanks Memorial Hospital	\$ 701,515.28	\$ 834,370.77	\$ 1,810,658.88	\$ 1,863,590.77
NRO	YKHC	\$ 9,759.84	\$ 18,277.50	\$ 3,626.00	\$ 1,900.00
SCRO	Providence Kodiak Island Medical	\$ 32,666.59	\$ 48,858.71	\$ -	\$ 3,585.00
SCRO	Valdez Community Hospital	\$ -	\$ -	\$ -	\$ -
SERO	Bartlett Memorial Hospital	\$ 221,225.17	\$ 467,870.61	\$ 591,562.23	\$ 920,319.19
SERO	Ketchikan General Hospital	\$ 56,381.28	\$ 34,443.41	\$ -	\$ -
SERO	Mt Edgecombe Hospital	\$ 2,662.00	\$ 3,133.60	\$ 50,672.00	\$ 42,333.40
SERO	Petersburg General	\$ -	\$ 3,791.04	\$ 2,164.91	\$ -
	Statewide	\$ 1,028,429.30	\$ 1,410,745.64	\$ 2,470,511.49	\$ 2,831,728.36



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Health & Social Services	DIVISION BH	BILL NUMBER LL 80	SPONSOR (RLS) BY REQUEST OF THE GO
SHORT TITLE OF BILL RELATING TO THE MENTAL HEALTH TREATMENT PROGRAM			
DEPARTMENT POSITION Support--Bill Ready for Introduction			
PREPARED BY Shawnda Brooks	DATE 02/04/2004	COMMISSIONER'S SIGNATURE Joel S. Gilbertson	DATE 02/04/2004

SUMMARY

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ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL Some of the service provider groups

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

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ANALYSIS OF BILL/PROGRAM EFFECTS

Passage of this bill will give the Department of Health and Social Services the tools it needs to contain costs for DET services on an annual basis. Requiring registration of the patient within 24 hours of admission assists the Department in determining what costs are being accrued at the time they are being incurred, thus ensuring that the program can be managed in a fiscally responsible manner. Additionally, it provides language to ensure that the state is responsible for paying for these services only to the extent that funding is appropriated for it by the legislature,

(continued on next page)

AMENDMENTS PROPOSED

BILL ANALYSIS

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. LL 80

Additional Comments

Background/Legislative Intent (continued)

appropriate discharge to a community based provider and 4) establish that the Department is under no obligation to pay for services a hospital delivers to a patient beyond a recommended discharge date. All of these changes are being put forward to enable the Department to ensure the needed services are provided to the extent possible with available funding, which is being decreased from FY04 to FY05.

Analysis of Bill/Program Effects (continued)

thus assuring that these services not be deemed an entitlement. Early passage of this bill would give the Department the statutory authority needed to implement these changes in FY04 to assist meeting an existing budget shortfall. Full benefit from these cost containment measures would be realized in FY05. The Department believes these changes can be made with minimum negative consequences for the clients being served because no patient will be moved to a lower level of care, unless it is medically appropriate and supports in the way of community based services are available. Passage of this bill may result in some of the hospitals incurring uncompensated care costs related to the delivery of DET services.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: 0080-DHSS-DBH-02-06-04
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 RDU Behavioral Health
 Component Designated Eval & Treatment

Revision Date/Time (Note if correction): _____
 Title RELATING TO THE MENTAL HEALTH TREATMENT PROGRAM

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester _____ Component No. 1014

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services:						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
Miscellaneous						
TOTAL OPERATING	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)

Estimate of any current year (FY2004) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will provide the Department with management tools necessary to contain costs for DET services on an annual basis. Changes to the eligibility requirements and time frames for applying for financial assistance will allow the department to better project and manage costs within the available funding levels. Current application timelines, i.e. 180 days after date of discharge results in bills for prior year service coming in the first six months of the current fiscal year. This lag makes it extremely difficult for program staff to project the level of funding available for current year program costs. (Continued on next page)

Prepared by: Bill Hogan, Director Phone 465-3371
 Division Behavioral Health Date/Time 02/05/2004
 Approved by: Joel S. Gilbertson, Commissioner Date 02/06/2004
 Agency Department of Health and Social Services

Questions on SB 364 from 3/22/04

1) Fiscal note-- how to manage 24-hour notification, contract with First Health? What happens if there is a lapse by the provider in the time to report?

Will educate providers on new registration requirements.

This is not a "change in eligibility" but rather a clarification on eligibility -- we will seek more information about their mental status with regard as to "dangerous" to confirm status in retrospective review.

Costs within existing budget -- if retrospective reviews are changed from DBH staff to First Health the cost would be about \$31,800/year based on a current charge of \$111.44/review X 275 reviews (average # of admissions / last 3 years).

If we add an early review at 8th day of admission (transitioning from evaluation to treatment) we can also add discussion about eligibility and discharge planning, the cost would increase by \$7,000 based on 63 admissions over 8 days in FY03. The total First Health review costs would be about \$40,000/year.

2) Senator Dyson-- outline of how professionals go about evaluating a patient for the amount of time for reasonable stay.

Duana Hopson, DBH Medical Director, will call in from API/LIO

3) Is there a liability issue if we order an early discharge and someone is harmed due to that early discharge?

Clarification -- we are not seeking a prior authorization process but a retrospective review of the records but with more detail in the records about the individuals' mental status while in hospital care. These will be fiscal discussions after discharge.

This retrospective review vs. prior authorization process will avoid most of liability concerns and is only a refinement in detail over the current process.

4) What have other states done on this issue? - Entitlement, permissive issue

Dept of Law is researching

5) Wants to know what we will do if we run out of funds appropriated -- we won't come back on a supplemental? -- our response of this language in other legislation is that it is pretty much standard language in legislation on benefits (i.e. Senior Care).

Deputy Commissioner will address hearing committee with reference to supplemental.

Ex: When it is projected that funds will run out before end year, DBH will notify hospitals and then at end of year pay balance in percentage to outstanding bills.

6) Do we need to note in the bill that a medical professional representing DHSS will be the one deciding with the provider?

DBH Medical Director can be added in appeal process if retrospective review challenges eligibility. Details to be clarified in AAC.

7) How do costs compare between API and DET/S facilities

API daily rate	669.00
Fairbanks	1,646.91
Bartlett	1,636.04
Ketchikan	1,800.68
Mt. Edgecumbe	2,049.00
Bethel	2,049.00

8) Do we know what the rate reduction might be -- section 7 of the bill.

To be worked out in AAC but:

Ex: When it is projected that funds will run out before end year, DBH will notify hospitals and then at end of year pay balance in percentage to outstanding bills.

9) Explanation for Cost Increases over years.

100% of Hospital cost increase between 01 and 03

27% of Hospital increase in average daily Medicaid between 01 and 03

27% of Hospital increase in total beds used between 01 and 03

Summary Of DES/T for FY00 to FY03					Hospitals Only		
		Clients Served in Fiscal Year					
Region	Facility	FY00	FY01	FY02	FY03		
ARO	Providence Hospital	2	0	0	0		
ARO	North Star Hospital	0	0	2	0		
NRO	Fairbanks Memorial Hospital	127	185	207	178		
NRO	YKHC	6	6	2	0		
SCRO	Providence Kodiak Island Medical	12	9	0	1		
SCRO	Valdez Community Hospital	0	0	2	0		
SERO	Bartlett Memorial Hospital	44	68	65	57		
SERO	Ketchikan General Hospital	33	21	0	0		
SERO	Mt Edgecombe Hospital	2	1	8	8		
SERO	Petersburg General	0	1	0	0		
Statewide		228	291	286	244		
		Days of Evaluation and Treatment Services in Fiscal Year					
Region	Facility	FY00	FY01	FY02	FY03		
ARO	Providence Hospital	6	0	0	0		
ARO	North Star Hospital	0	0	6	0		
NRO	Fairbanks Memorial Hospital	874	791	892	991		
NRO	YKHC	8	12	2	0		
SCRO	Providence Kodiak Island Medical	22	24	0	4		
SCRO	Valdez Community Hospital	0	0	6	0		
SERO	Bartlett Memorial Hospital	235	460	430	670		
SERO	Ketchikan General Hospital	59	33	0	0		
SERO	Mt Edgecombe Hospital	2	2	28	21		
SERO	Petersburg General	0	1	0	0		
Statewide		1206	1323	1364	1686		
		Average Length of Stay in Fiscal Year					
Region	Facility	FY00	FY01	FY02	FY03		
ARO	Providence Hospital	3	0	0	0		
ARO	North Star Hospital	0	0	3	0		
NRO	Fairbanks Memorial Hospital	6.9	4.3	4.33	5.6		
NRO	YKHC	1.3	2	1	0		
SCRO	Providence Kodiak Island Medical	1.8	2.7	0	4		
SCRO	Valdez Community Hospital	0	0	3	0		
SERO	Bartlett Memorial Hospital	5.3	6.8	6.6	11.8		
SERO	Ketchikan General Hospital	1.8	1.6	0	0		
SERO	Mt Edgecombe Hospital	1	2	3.5	2.6		
SERO	Petersburg General	0	1	0	0		
Statewide		3	2.9	3.6	6		
Cost of Increase 01 to 03					Estimated		
Statewide		FY01	FY02	FY03	Cost Increases		
Average Daily Medicaid Rate		1178	1449	1493			
Percentage of Increase in Rate					27%	\$534,090	
Total Bed Days		1323	1364	1686			
Percentage of Increase in Days					27%	\$612,018	
Total DES/T		\$1,410,745	\$2,470,511	\$2,831,728			
Percentage of Increase in Cost					100%	\$1,420,938	

23G-2
3/31/2004
(9:37 AM)

AMENDMENT

OFFERED IN THE HOUSE HEALTH,
EDUCATION AND SOCIAL SERVICES COMMITTEE
TO: HB 535

BY _____

1 Page 2, line 28:

2 Delete "may [SHALL]"

3 Insert "shall"

4

5 Page 4, lines 23 - 28:

6 Delete all material.

7

8 Renumber the following bill sections accordingly.

9

10 Page 5, line 12 - 13:

11 Delete "secs. 1 - 9"

12 Insert "secs. 1 - 8"

13

14 Page 5, line 20:

15 Delete "Section 11 of this Act"

16 Insert "Section 10 of this Act"

17

18 Page 5, line 21:

19 Delete "sec. 12 of this Act"

20 Insert "sec. 11 of this Act"

**SENATE HEALTH, EDUCATION AND SOCIAL
SERVICES COMMITTEE (HES)**

**LETTER OF INTENT
TO SB 364**

It is the intent of the legislature that the Department of Health and Social Services continue to develop and support a continuum of mental health care that includes community-based outpatient and supportive services, community hospital-based inpatient evaluation and treatment services, and tertiary mental health care through the Alaska Psychiatric Institute. In developing this system the Department of Health and Social Services shall be guided by the principles that mental health services should be clinically appropriate, cost effective, offered in the least restrictive setting available, and provided as close to the client's home as possible.

It is further the intent of the legislature that in the event of a shortfall in appropriations for mental health evaluation and treatment at community hospitals to stabilize persons experiencing a psychiatric emergency or crisis, and who meet the criteria for involuntary commitment under AS 47.30.700 – 47.30.915, the Department of Health and Social Services shall make every effort to identify additional financing sources or reallocate appropriations available for the purpose from lesser priorities to continue these important services for the remainder of the fiscal year.

Part of language in operating budget

House HESS Questions 3/25/04 HB 535
Draft 3/31/04

- 1) If a person has been sent to a DET facility on a court order, would the DBH have any authority to question or overthrow the court order.

Attn Gen – the DBH would be obligated to follow that order

However, the treating physician can discharge a person who does not meet admission criteria.

- 2) How many youth are treated in DET facilities?

Seven (under 3%) admissions occurred in FY 03 out of a total 244 admissions; one youth entered the hospital twice. None exceeded the evaluation phase of up to 7 days.

- 3) What is the explanation for the increased length of stay at Bartlett?

See attached list of reasons for extended stays as explained by Bartlett justified by clinical reasons in the best interests of the patient

- 4) Why is cost of care at Mt. Edgecumbe so high compared to Bethel for example?

All IHS hospitals have a nationally determined rate that is the same for all hospitals

General answer is full cost studies are conducted every four years which include facility depreciation and are used to collect Medicaid funds.

- 5) What would happen if API were full?

- See # 3 – We can ask a DET facility to keep someone longer
- API is being more assertively managed to avoid being full – Current CEO has not turned anyone away

- 6) Could we send anyone to a correctional facility if API is full?

Attn Gen. -- DHSS will pay for another placement – we will not send to correctional facility (notwithstanding hold in jail while transportation being arranged for combative patients – leads to discussions about developing more assertive local DET and other medication options including Dr. to Dr. discussions with local physicians and API physicians.

- 7) Why are there different poverty levels eligibility definitions -- example between DET and Denali Kid Care.

There are at least 9 categorical programs using poverty definitions ranging from 100 -- 250% of federal poverty guidelines. Each was developed at different times, under different climates and different administrations.

See attached data summary sheet.

- 8) What is the comparable API Daily Medicaid Rate?

I was in error reporting the daily cost at API as \$669. That rate did not include depreciated facility costs. The Medicaid Rate was calculated at \$757.46/day calculated with the same standardized procedure used to calculate the other Medicaid rates used for other hospitals.

A rate for the new facility has not been calculated.

- 9) Are the Medicaid Rates cost shifting from higher Medical Costs such as surgery?

(Note: DHSS efforts to restructure psychiatric hospital rate.)

- 10) How will be using First Health and MD to monitor program?

See Summary of Proposed DET Monitoring Process

- 11) How have other states managed DET like programs in terms of an entitlement vs. limitations of budget.

Dan Branch, Att. Gen. Office has been asked to attend on 4/2/04