

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11257 SENATE LABOR & COMMERCE

### *How will it affect the obstetricians?*

- Birth centers provide an opportunity for obstetricians and family physicians to learn and practice midwifery - time and education intensive, "with woman" - care.
- Birth centers provide an opportunity for obstetricians to invest in a service in which they can expand their interests.
- Birth centers offer obstetricians an opportunity to develop teams of professional care providers that will improve primary care services to families and better use their specialist skills.

### *How is the quality of care assured in birth centers?*

- Through the promotion of state regulations for licensure (37 states currently license birth centers).
- Through established National Standards (adopted 1985).
- Through a Continuous Quality Improvement Program for Birth Centers (model program available).
- Through accreditation by the Commission for the Accreditation of Birth Centers.

### *How do birth centers contain costs?*

- By retaining autonomy (control) over birth center operations and program regardless of ownership (some hospitals own freestanding birth centers).
- By providing "high touch" rather than "high tech" care, birth centers minimize the overuse of technology.
- By providing a program of primary care that emphasizes education, wellness, prevention, self-help and self-reliance in family health maintenance.
- By using staff efficiently; staff are only in-house when a mother is in-house. Since birth centers do not compete with emergency services or hospital acute care, levels of staff are used efficiently and appropriately.
- By sharing responsibility with the childbearing family for health and prevention of illness.
- By using existing community services when available (instead of creating costly duplications) for transport services, social services, medical consultation, laboratories, etc.
- By using established policies and procedures for screening and transfer of women with problems to acute care services.
- By using low cost construction that meets safety codes.

### REFERENCES

1. Rooks, J., et al., "Outcomes of Care in Birth Centers: The National Birth Center Study", *New England Journal of Medicine*, 321:1804-1811, (December 28), 1989
2. Health Insurance Association of America, *Source Book of Health Insurance Data - 1996*, 1996, Washington, DC.
3. National Association of Childbearing Centers, *NACC 1996 Annual Survey Report of Birth Center Experience*, 1997, Perkiomenville, PA.
4. Rooks, J., et al., "The National Birth Center Study: Part I - Methodology and Prenatal Care and Referrals", *Journal of Nurse-Midwifery*, Vol. 37, No. 4: 222-253, July/August, 1992
5. Rooks, J., et al., "The National Birth Center Study: Part II - Intrapartum and Immediate Postpartum Neonatal Care", *Journal of Nurse-Midwifery*, Vol. 37, No. 5: 301-340, September/October, 1992
6. Rooks, J., et al., "The National Birth Center Study: Part III - Intrapartum and Immediate Postpartum Neonatal Complications and Transfers, Postpartum and Neonatal Care, Outcomes and Client Satisfaction", *Journal of Nurse-Midwifery*, Vol. 37, No. 6: 361-397, November/December, 1992

# The Birth Center

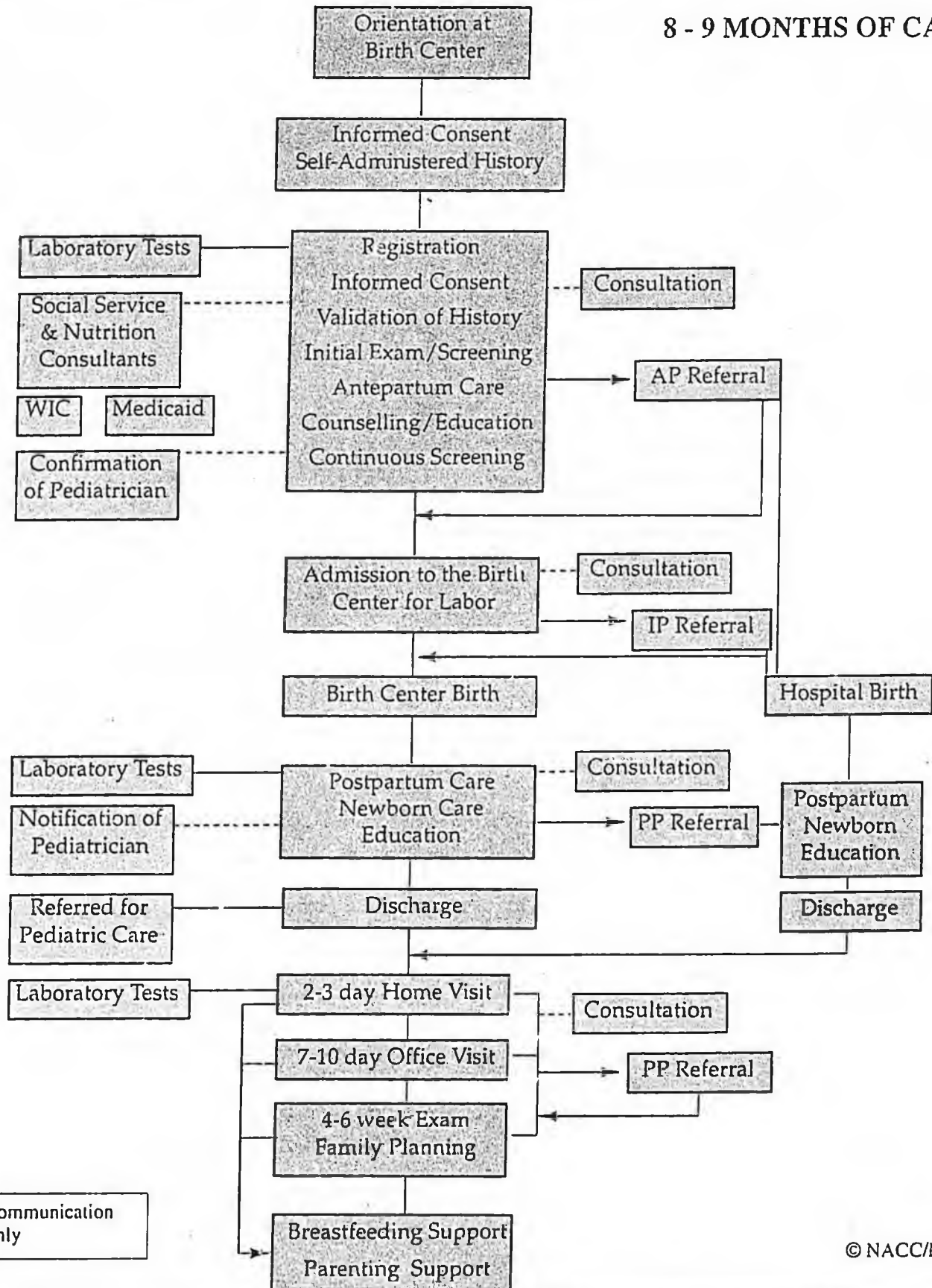
## Primary Care in an Integrated Health Care System

Ancillary Services

Birth Center/Primary Care

Hospital/Acute Care

8 - 9 MONTHS OF CARE



----- = communication only



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## ORIGINAL ARTICLE

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Volume 321:1804-1811

December 28, 1989

Number 26

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## Outcomes of care in birth centers. The National Birth Center Study

*JP Rooks, NL Weatherby, EK Ernst, S Stapleton, D Rosen, and A Rosenfield*

### Abstract

We studied 11,814 women admitted for labor and delivery to 84 free-standing birth centers in the United States and followed their course and that of their infants through delivery or transfer to a hospital and for at least four weeks thereafter. The women were at lower-than-average risk of a poor outcome of pregnancy, according to many but not all of the recognized demographic and behavioral risk factors. Among the women, 70.7 percent had only minor complications or none; 7.9 percent had serious emergency complications during labor and delivery or soon thereafter, such as thick meconium or severe shoulder dystocia. One woman in six (15.8 percent) was transferred to a hospital; 2.4 percent had emergency transfers. Twenty-nine percent of nulliparous women and only 7 percent of parous women were transferred, but the frequency of emergency transfers was the same. The rate of cesarean section was 4.4 percent. There were no maternal deaths. The overall intrapartum and neonatal mortality rate was 1.3 per 1000 births. The rates of infant mortality and low Apgar scores were similar to those reported in large studies of low-risk hospital births. We conclude that birth centers offer a safe and acceptable alternative to hospital confinement for selected pregnant women, particularly those who have previously had children, and that such care leads to relatively few cesarean sections.

### ARTICLE

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  - ▶ [Rooks, J. P.](#)
  - ▶ [Rosenfield, A.](#)
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### Source Information

Center for Population and Family Health, School of Public Health, Columbia University, New York.

## Juneau Family Birth Center

The JFBC midwives have attended 392 (as of September 30, 2003) births since opening in April 1998. This number includes all women who started their labor intending to deliver at the birth center or at home.

**1998 77 women served**

30 women prenatal care only

6 hospital support

**41 births attended**

**Births in Juneau 407**

11 home births

27 birth center births

3 hospital transports

0 cesarean sections

**1999 113 women served**

36 women prenatal care only

5 hospital support

**79 births attended (18.8% of Juneau births-421)**

17 home births

46 birth center births

16 hospital transports

9 cesarean sections

**2000 101 women served**

39 women prenatal care only

5 hospital support

**68 births attended (16.2% of Juneau births-421)**

12 home births

48 birth center births

8 hospital transports

7 cesarean sections

- 2001      118 women served**  
45 prenatal care only  
10 hospital support  
**73 births attended    (17% of Juneau births-435)**  
9 home births  
56 birth center births  
8 hospital transports  
4 cesarean sections
- 2002      125 women served**  
42 prenatal care only  
14 hospital support  
**83 births attended    (20.5% of Juneau births-405)**  
14 home births  
55 birth center births  
14 hospital transports  
6 cesarean sections
- 2003      140 women served (as of September 30, 2003)**  
6 hospital support  
**48 births attended**  
4 home births  
33 birth center births  
7 hospital transports  
6 cesarean sections

Total births attended to as of September 30, 2003 by JFBC  
midwives - 392

Total women served by the birth center- 700

Statistics as of August 24, 2003

|   |    |       |
|---|----|-------|
| Number of women transported in labor  | 56 | 15.5% |
| Number of cesarean sections   | 32 | 8.2%  |
| (Number of cesarean sections nation wide  |    | 28%)  |
| Number of transports of mom postpartum  | 6  | 1.8%  |
| Number of transports of baby postpartum   | 7  | 1.8%  |
| Baby deaths at birth  | 0  |       |
| Baby deaths before 6 weeks  | 2  |       |
| One of heart problems at 5 weeks  |    |       |
| One of a birth defect incompatible with life  |    |       |
| Homebirths  | 67 | 17.3% |
| Breastfeeding rate for the first 6 weeks  |    | 98%   |
| (Most of our moms breastfeed for years, but we have no official way of tracking this) |    |       |
| Average baby weight   |    | 8 lbs |

## COST DIFFERENTIAL FOR BIRTHING CENTERS AND HOSPITALS IN ALASKA

### ANCHORAGE

|                           |              |
|---------------------------|--------------|
| Geneva Woods Birth Center | \$1200.00    |
| Providence Hospital       | \$3460.00(1) |
| Alaska Regional           | \$3475.00(2) |

### JUNEAU

|                            |   |
|----------------------------|---|
| Juneau Family Birth Center | \$1200.00   |
| Bartlett Regional Hospital | \$2695.00-\$3850.00 (mom) plus<br>\$1170.00-\$1755 (baby) (3) |

### FAIRBANKS

|  |                         |
|--|-------------------------|
| Alaska Family Health<br>& Birth Center | \$1200.00               |
| Fairbanks Memorial Hospital            | \$2500.00-\$3500.00 (4) |

1. Quote is for Providence Hospital, uncomplicated delivery and 24 hour stay after delivery. Epidural anesthesia is \$1300.00 additional. Cesarean section is \$7104.00 for 3 day stay, not including anesthesia or physician charges.
2. Cesarean section at Alaska Regional is \$7206.00.
3. Bartlett Regional Hospital does not have all-inclusive pricing. They quote a range of prices and everything from an IV to oxygen and medication is an additional charge. Cesarean section in Juneau costs \$7203.00-\$8295.00 (mom) with an additional charge for the baby of \$1995.00-\$2310.00.
4. Fairbanks Memorial does not have all-inclusive pricing and charges for labor and delivery by the hour. Baby is an additional charge, as is any medication, oxygen, etc. Cesarean section is approximately \$8,000.00.

SB

350

SESSION ADDRESS:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4925  
Fax: (907) 465-3517  
Toll Free: 1-800-821-4925

# Senator Gary Stevens

## Alaska State Legislature

INTERIM ADDRESS:  
112 Mill Bay Road  
Kodiak, Alaska 99615  
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Fax: (907) 486-5264



### Sponsor Statement

### Senate Bill 350

“An Act relating to the four dam pool joint action agency; and providing for an effective date.”

The main purpose of this legislation is to allow the Four Dam Pool Power Agency (FDPPA), the first agency formed under the statute allowing joint action agencies (JAA's), to refinance their approximately \$73 million loan owed to the Alaska Industrial Development and Export Authority (AIDEA).

HB 495 clarifies existing JAA statute to state explicitly that joint action agencies are political subdivisions of the state *for the purposes of securities law*. This is necessary if the FDPPA is to avoid certain expensive and damaging hurdles having to do with registration of securities under some bond sale circumstances.

Further, the legislation allows the agency to mortgage the four dam pool assets. Such a mortgage will likely be necessary in order to sell the bonds as contemplated. The assets are presently mortgaged to AIDEA, just as they would be mortgaged to the new lenders.

The legislation re-states the important principal established by the legislature that the Four Dam Pool assets may not be sold to a party outside the FDPPA without legislative approval. However, it makes it clear that mortgaging the assets- or a foreclosure under the terms of that mortgage- does not constitute a sale under this restriction, providing that certain requirements are met.

When this refinancing occurs and the AIDEA loan is retired, the state and consumers in a large part of Alaska will benefit by:

- Allowing the FDPPA to return approximately \$73 million to AIDEA for other uses
- Helping consumers of Four Dam Pool power by lowering interest rates and administrative costs associated with the acquisition

I urge your favorable consideration of this important legislation.

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSSB 350 (L&C)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title Four Dam Pool Joint Action Agency RDU AIDEA (125)  
Component AIDEA  
Sponsor Senator Gary Stevens  
Requester Senate Labor & Commerce Component No. 1234

**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          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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)

See next page.

Prepared by: Ron Miller, Executive Director Phone (907) 269-3000  
Division AIDEA/AEA Date/Time 3/10/04 9:26 AM  
Approved by: Dgar Blatchford, Commissioner Date 3/10/2004  
Agency Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. CSSB 350 (L&C)

ANALYSIS CONTINUATION

The bill states that a joint action agency is a political subdivision for certain purposes, and it clarifies that a joint action agency's assets, including The Four Dam Pool Power Joint Action Agency's, may be mortgaged to secure financing by the joint action agency.

In addition, the bill states that the joint action agency's assets may be transferred in connection with a foreclosure without legislative approval. The bill also provides the Alaska Energy Authority (AEA) the ability to amend the Memorandum of Understanding between the purchasing utilities and AEA that was adopted by reference in 2000 SLA Ch 60 to be consistent with the changes in this bill.

On January 31, 2002, the Alaska Industrial Development and Export Authority (AIDEA) loaned \$77.1 million to the Four Dam Pool Power Joint Action Agency (the "Agency") for the purchase, closing costs and initial funding of reserves related to the Agency's acquisition of the Four Dam Pool Project from AEA.

It is AIDEA's understanding that this bill will assist in the Agency's efforts to pay off its debt to AIDEA and obtain lower interest rate financing. The interest rate on the AIDEA loan is 6.5% and the principal amount due is approximately \$74 million. Repayment of this loan will allow AIDEA to loan these funds through AIDEA's loan participation program at current interest rates of approximately 6.88%.

This bill has no general fund impact and although the fiscal impact to AIDEA is expected to be positive, the amount is indeterminate.

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**CITY OF PETERSBURG**  
P.O. BOX 329 - PETERSBURG, ALASKA 99833  
TELEPHONE (907) 772-4511  
TELECOPIER (907) 772-3159

March 5, 2004

Representative Bill Williams  
Mail Stop 3100  
State Capitol  
Juneau, AK 99801-1182

**Subject: HB495 and SB350 re: Joint Action Agencies**

Dear Representative Williams:

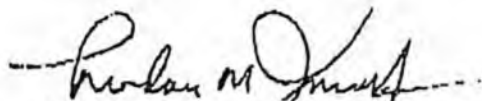
The City of Petersburg is writing in support for HB495 and SB350 and ask your continued support in passage of this proposed legislation.

HB495, introduced by yourself and SB350, introduced by Senator Stevens, provide certain technical corrections to earlier legislation authorizing the sale of the state's interest in four hydroelectric projects that constituted the Four Dam Pool Power to a joint action agency formed by the participants in the Pool. The City of Petersburg is a member of the agency, along with the cities of Wrangell and Ketchikan, the Kodiak Electric Association and the Copper Valley Electric Association. The acquisition was financed with a loan from AIDEA, at interest rates currently in excess of those available from other sources. This legislation:

- Clarifies the ability of the joint action agency to refinance the AIDEA debt and lower the cost of power for citizens of Alaska;
- Returns up to \$74 million to the State of Alaska;
- Provides for the use of the hydroelectric resources as security for new debt; and
- Assures that the resources will continue to serve the members of the Pool, as intended by original authorizing legislation.

We urge your continued support in the passage of this important legislation.

Sincerely,

  
Theodore M. Smith, Mayor

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 350  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Four Dam Pool Joint Action Agency RDU AIDEA (125)  
 Component AIDEA  
 Sponsor Senator Gary Stevens  
 Requester Senate Labor & Commerce Component No. 1234

**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          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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)

On January 31, 2002, AIDEA loaned \$77.1 million to the Four Dam Pool Power Joint Action Agency (the "Agency") for the purchase, closing costs and initial funding of reserves related to the Agency's acquisition of the Four Dam Pool Project. This bill has no general fund impact and no fiscal impact to AIDEA.

This bill clarifies that a joint action agency's assets (including the Agency's) may be mortgaged for future financing by the joint action agency. In addition, the bill states that the joint action agency's assets may be transferred in connection with a foreclosure without legislative approval; however, this provision does not supercede the legislative approval required in the Memorandum of Understanding between the purchasing utilities and the Alaska Energy Authority adopted by reference in 2000 SLA Ch 60.

Prepared by: Ron Miller, Executive Director Phone (907) 269-4623  
 Division AIDEA/AEA Date/Time 3/4/04 3:26 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/4/2004  
 Agency Department of Community & Economic Development

23-LS1774D  
Craver  
3/4/04

**CS FOR SENATE BILL NO. 350( )**

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

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR GARY STEVENS**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act allowing a joint action agency to encumber property interests for security**  
2 **purposes; declaring certain joint action agencies to be political subdivisions for certain**  
3 **purposes; restricting the sale of property of the joint action agency; allowing the joint**  
4 **action agency to transfer property to security interest holders under a security interest**  
5 **or to other parties without legislative approval; and providing for an effective date."**

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

7 **\* Section 1.** AS 42.45.310(c) is amended to read:  
8 (c) The agency is a body corporate and politic and an instrumentality of the  
9 public utilities that form the agency, but has a separate and independent legal  
10 existence from the public utilities. A debt, obligation, or liability of the agency does  
11 not constitute a debt, obligation, or liability of a public utility or the state. A liability  
12 incurred by the agency shall be satisfied exclusively from the assets or revenue of the  
13 agency, and a creditor of the agency or any other person does not have any right of

1 action or claim against a public utility or the state, because of a debt, obligation, or  
 2 liability of the agency. The agency has the powers of a public utility under AS 42.05  
 3 and the immunities of a public utility. In addition to the powers granted to the agency  
 4 under AS 42.45.300 and this section, the agency has the power

5 (1) to adopt bylaws of the agency;

6 (2) to sue and be sued;

7 (3) to carry out the authorized purposes of the agency;

8 (4) subject to (e) of this section, to issue revenue bonds and other  
 9 obligations that are not obligations of either the state or the public utilities that are  
 10 parties to the agency agreement to provide financing to carry out the authorized  
 11 purposes of the agency; [AND]

12 (5) in addition to the powers of eminent domain in AS 42.05.631, to  
 13 exercise the powers of eminent domain and a declaration of taking to acquire land or  
 14 materials within the boundaries of the power project purchased by the agency from the  
 15 Alaska Energy Authority under the procedures set out in AS 09.55.240 - 09.55.460 to  
 16 carry out the authorized purposes of a joint action agency; and

17 (6) to use facilities, projects, and related assets owned, leased, or  
 18 operated by the joint action agency as security for bonds, notes, mortgages, credit  
 19 enhancement devices, or other obligations.

20 \* Sec. 2. AS 42.45.310(h) is amended to read:

21 (h) An agency formed by, and that continues to include, one or more  
 22 municipal public utilities is a political subdivision for purposes of AS 38.05.810, and  
 23 functions as a political subdivision in the acquisition and operation of the power  
 24 project under the agreement authorized by this section. Except as provided in  
 25 this subsection, the agency is not a political subdivision of the state.

26 \* Sec. 3. AS 42.45.310 is amended by adding new subsections to read:

27 (j) The agency may not sell a project owned by the agency to any purchaser  
 28 without the approval of the legislature in advance of the effective date of the sale,  
 29 except that a sale made to a public utility that is a party to the agreement does not  
 30 require legislative approval.

31 (k) Notwithstanding (j) of this section, the project and related assets may be

1 transferred in connection with a foreclosure or other enforcement of a lien or security  
2 interest to a party holding a lien or security interest acquired under (c)(6) of this  
3 section or to another party without legislative approval. A party obtaining a property  
4 interest under this subsection may transfer that interest without the approval of the  
5 legislature.

6 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 LEGISLATIVE AUTHORIZATION TO AMEND MEMORANDUM OF  
9 UNDERSTANDING REGARDING SALE OF FOUR DAM POOL HYDROELECTRIC  
10 PROJECT. Notwithstanding the restriction imposed by sec. 15(a), ch. 60, SLA 2000, the  
11 memorandum of understanding that authorizes the sale of the four dam pool hydroelectric  
12 project may be amended consistent with the provisions of AS 42.45.310(j) and (k), added by  
13 sec. 3 of this Act, if sec. 3 of this Act becomes effective.

14 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

SB

357

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 3/1/04

FURTHER: Finance

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

DATE TURNED  
 IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered SENATE BILL NO. 357

**SB 357 INSURANCE**

"An Act relating to the regulation of insurance, insurance licenses, qualifications of insurance producers, surplus lines, fraud investigations, electronic transactions, and compliance with federal law and national standards; 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

|                          |                          |
|--------------------------|--------------------------|
| <b>Senate Bill:</b>      |                          |
| <input type="checkbox"/> | Same Title               |
| <input type="checkbox"/> | New Title                |
| <b>House Bill:</b>       |                          |
| <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# |
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**PREVIOUS FISCAL NOTE(S):**

| Department | Date | Fiscal | Indet. | Zero | FN# |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Ralph Jeebins</i>            | ✓       |             |        |       |
| <i>Betty Davis</i>              | ✓       |             |        |       |
| <i>[Signature]</i>              |         |             | X      |       |
| <i>[Signature]</i>              |         |             | X      |       |
| CHAIR: <i>A. B. [Signature]</i> |         |             | ✓      |       |

# Alaska State Legislature

DURING SESSION  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
(907) 465-4843 (800) 892-4843  
FAX: (907) 465-3871

WEB SITE  
[www.akrepublicans.org/Bunde](http://www.akrepublicans.org/Bunde)



**SENATOR CON BUNDE**  
District P

VICE-CHAIR: SENATE FINANCE COMMITTEE  
CHAIR: SENATE LABOR & COMMERCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

DURING INTERIM  
716 W. FOURTH AVE.  
ANCHORAGE, AK 99501-2133  
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[Senator.Con.Bunde@legis.state.ak.us](mailto:Senator.Con.Bunde@legis.state.ak.us)

## MEMORANDUM

DATE: May 9, 2004  
TO: Representative Rokeberg  
House Rules Chair  
FROM: Senator Con Bunde  
RE: Request for Calendaring

---

I respectfully request that **SB 357 "Insurance"** be scheduled for the House Floor calendar at your earliest convenience.

SB 357 contains numerous changes to Title 21, ensuring state consistencies with federal law, the National Association of Insurance Commissioners (NAIC) model acts, standards and guidelines. It also updates procedures and transactions within the Division of Insurance.

In summary, SB 357 does these things:

- Provides for electronic communications between the Division of Insurance and the public, industry and other regulators to promote more efficiencies
- Provisions for changes in reinsurance
- Contains recommended Licensing Revisions that have been suggested by the NAIC Accreditation Team
- Changes in liability for civil damages when filing a report concerning fraudulent act to a person involved in the prevention and detection of fraudulent insurance acts.
- Contains provisions that clarify that a guaranty fund deposit is required for title insurance companies.
- Changes to taxes and late payments to make the penalties more consistent with the Department of Revenue statutes and include penalties for surplus lines brokers who submit late payments on taxes.

Attached please find CSSB 357, sponsor statement, support letter from the Division of Insurance and fiscal notes.

# Alaska State Legislature

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[Senator.Con.Bunde@legis.state.ak.us](mailto:Senator.Con.Bunde@legis.state.ak.us)

## SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE  
CHAIR: SENATE LABOR & COMMERCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

### Sponsor Statement SB 357

SB 357 is referred to as the Insurance Omnibus Bill because it contains numerous changes to Title 21 that are necessary to ensure that state statutes are consistent with federal law, the National Association of Insurance Commissioners (NAIC) model acts, standards and guidelines, and to update procedures and transactions.

A summary of the general changes follows.

1. Provisions to provide electronic communications between the Division of Insurance and the public, industry and other regulators will promote more efficient administrative procedures.
2. Provisions for changes in reinsurance are necessary to bring the state law into compliance with the NAIC Model Credit for Reinsurance Regulation
3. Revisions have been suggested by the NAIC Accreditation Team dealing with authority of the director over risk based capital and conditions for approval of a merger or other acquisition.
4. Licensing revisions are necessary to make insurance license regulation in Alaska consistent with the NAIC Producer License Model Act and Producer Licensing Resident Uniformity Standards to be in compliance with Federal Law.
5. Revisions in the surplus lines statutes to make the regulatory process more efficient based on a industry producer task force that met in the summer of 2003.
6. Changes to provide that a person is not liable for civil damages for filing a report concerning fraudulent act to a person involved in the prevention and detection of fraudulent insurance acts. This change is necessary to allow special investigation units of different insurance companies to share information about fraudulent acts without the potential of liability and is based on the NAIC model act.
7. Provisions clarifying that a guaranty fund deposit is required for title insurance companies.
8. Changes to taxes and late payments to make the penalties more consistent with the Department of Revenue statutes and include penalties for surplus lines brokers who submit late payments on taxes.

These changes to Title 21 will promote consistency between Alaska and other states, promote more efficient operations and provide better public protection.

SPONSOR STATEMENT

**Senate Bill: SB 357**  
**Short Title: Insurance Omnibus Bill**  
**Sponsor: Senate Labor & Commerce**  
**Current Version: D**  
**Contact: Jane Alberts 465-4843**

**Summary:**

- Revisions of regulation of reinsurance and authority over risk-based capital
- Revisions to licensing requirements to remove barriers for doing business in Alaska and eliminating trainee licenses
- Revisions to surplus lines regulations

**Benefits:**

- Promotes more efficient administrative procedures and industry oversight
- Makes Alaska licensing more consistent with national standards
- Makes surplus lines procedures more efficient

**Background**

- Most of the revisions were recommendations of the NAIC accreditation team when reviewing Alaska statutes in the last examination
- The NAIC Producer License Model Act and the Producer Licensing Resident Uniformity Standards are the basis for proposed changes
- A surplus lines task force met in the summer of 2003 to review the current statutes, regulations and procedures and made recommendations to the Division of Insurance for updating to allow the effective delivery of products to consumers

Frank H. Murkowski, Governor



**Division of Insurance**

P.O. Box 110805, Juneau, AK 99811-0805

Telephone: (907) 465-2515 • Fax: (907) 465-3422 • Text Telephone: (907) 465-5437

Email: [Insurance@dced.state.ak.us](mailto:Insurance@dced.state.ak.us) • Website: [www.dced.state.ak.us/insurance/](http://www.dced.state.ak.us/insurance/)

March 8, 2004

Senator Con Bunde, Chairman  
Senate Labor and Commerce  
Room 506  
State Capitol  
Juneau, Alaska 99801

RE: Senate Bill 357

The Honorable Con Bunde,

The changes to Title 21 which are proposed in SB 357 are necessary to ensure that Alaska statutes are consistent with federal law (the provisions mandated under the Gramm-Leach-Bliley Act) and with model acts and standards of the National Association of Insurance Commissioners (NAIC). A number of the proposed changes dealing with the financial oversight of insurance companies were suggested by the NAIC accreditation team as Alaska was reviewed for renewal of accredited status. It is important to continue to have the recognition of the NAIC which acknowledges compliance with national standards.

Some of the proposed changes relate to updating procedures to reflect the current insurance environment and to enable electronic communications between the Division of Insurance and the public, industry and other regulators.

Two key elements of the mission of the Division of Insurance are to protect the consumer and to enhance the insurance business environment. As we perform our regulatory oversight functions, we regularly review the provisions of Title 21 to determine our authority and to look at areas which should be changed to enable the Division staff to continue to ensure we have the tools to achieve the stated mission.

I would urge support of SB 357 and the changes that are being proposed.

Sincerely,

Linda S. Hall  
Director

*"Promoting a healthy economy and strong communities"*

newest as of  
May 4 -  
includes HLC  
amendments

Sectional Analysis - SB 357  
Revised 5-4-04  
Insurance Omnibus Bill

- Section 1 Deleted words "certified to" and replaced with "issued" in order to assist the public, industry and other regulators to electronically communicate with the division. Electronic transactions are more efficient and streamline administrative procedures.
- Section 2 Deletes "and" and substitutes "or" to clarify that contracts may not contain any of the prohibited provisions individually as was the intent of the original language
- Section 3 Deleted words "notwithstanding AS 21.86.280, medical" and replaced with "medical" in order to clarify the meaning of this section.
- Section 4 Added subsection (d) to clarify that for purposes of this section, a managed care entity means a managed care entity that is not subject to AS 21.36
- Section 5 Requires an insurer to maintain a separate deposit for assigned risk pool loss reserves which would be available to cover obligations of insolvent insurers
- Section 6 Deleted words "certified to" and replaced with "issued" in order to assist the public, industry and other regulators to electronically communicate with the division. Electronic transactions are more efficient and streamline administrative procedures.
- Section 7 Revised to make it possible for director to suspend, rather than revoke, a certificate of authority for additional one year terms so that insurer can correct the issues that caused the need for suspension. In any event, the certificate of authority will be revoked after five years of suspension.
- Section 8 Deleted word "received" and replaced with "written" to clarify the intent of the section to reflect the practical calculation methodology of taxes paid by insurers.
- Section 9 Deleted word "received" and replaced with "written" and words "income received" were deleted and replaced with "written" to clarify the intent of the section and to reflect the practical calculation methodology of taxes paid by insurers.

- Section 10 Revised the calculation methodology of late paid taxes by insurers under AS 21.09.210 and makes the penalties more consistent with Department of Revenue statutes. Taxes must be made in the form required by the director, which by regulation is automated clearinghouse debit or credit. A penalty may be assessed for willful violation of the section, and the director may revoke or suspend a certificate of authority of an insurer who fails to pay taxes or late fees.
- Section 11 Clarified the intent of the section by deleting the words "policy of" and replacing with "policy."
- Section 12 Added a subsection, which provides that premiums paid on an individual life insurance are not subject to retaliation tax under AS 21.09.270
- Section 13 Deleted the word "certified" and replaced with "issued" in order to provide for electronic communication
- Section 14 Revised to clarify that assumption of Alaska business should only be ceded to an insurer that is authorized by its domestic state to conduct the same line of business being ceded and to bring state law into compliance with the NAIC Model Credit for Reinsurance Regulation, including conditions and requirements for domestic ceding insurers and assuming insurers.
- Section 15 Revised to bring state law into compliance with the NAIC Model Credit for Reinsurance Regulation, including conditions and requirements for domestic ceding insurers and assuming insurers.
- Section 16 Added a new section that provides for the regulation of Alaska policyholder business that is transferred from an Alaska admitted insurer to a non-admitted insurer through an assumption reinsurance agreement.
- Section 17 Added a new subsection that states that the requirements of this chapter are supplemental to any other provisions of this title and do not preclude or limit any other powers or duties of the director. The addition is as given in the NAIC Model Law and required for accreditation by NAIC.
- Section 18 Added a subsection, which clarifies conditions for approval of a merger or acquisition under Chapter 22, Insurance Holding Companies, with respect to insurance buying public. The addition is as given in the NAIC Model Law and required for accreditation by NAIC.
- Section 19 Changed the numbering sequence to correspond to other changes

- Section 20 Revised to give the director the authority to issue licenses for crop and surety insurance lines of authority to qualified persons based on these lines of authority for consistency with national standards.
- Section 21 Deleted reference to trainee license for an insurance producer as it is inconsistent with the NAIC Producer Licensing Model Act that is used as a standard for national uniformity in producer licensing.
- Section 22 Deleted additional license requirements that may impose barriers to licensure for nonresidents who seek to obtain a license in our state. Requiring a company appointment for the "sole purpose to be appointed" is considered an additional requirement that may jeopardize Alaska's reciprocity under the Gramm-Leach-Bliley Act. Deleted references to fraternal licenses to conform to national licensing standards since Alaska is one of only a few states that offer this license class. A person who sells policies on behalf of a fraternal organization is already licensed for major lines (life and health) and therefore this repeal has no negative effect.
- Section 23 Corrected the statutory reference to correspond to other changes
- Section 24 Deleted reference of trainee license for an insurance producer in order to conform to NAIC standards.
- Section 25-28 Deleted inconsistent experience requirements for managing general agents, reinsurance intermediary managers, reinsurance intermediary brokers and surplus lines brokers in order to be consistent with the Gramm-Leach-Bliley Act. Included a requirement for a person seeking licensure for surplus lines authority that they also be licensed as either a producer or managing general agent, consistent with NAIC standards.
- Section 29 Revised to make it possible for health insurance to be provided through surplus lines.
- Section 30 Clarified definitions.
- Section 31 Added a new section that makes it possible for health insurance to be provided through surplus lines.
- Section 32 Amended the section to include the requirement that in order for a nonadmitted insurer to be an eligible surplus lines insurer, that it pays to the division or surplus lines association any fee required by regulation and that an annual fee required under this section and adopted as a regulation must be paid on or before June 30 of each year.
- Section 33 Added a new subsection which clarifies the meaning of "transaction."

- Section 34-36 Revised to make the regulatory process more efficient and reflective of the surplus lines marketplace based on an industry task force convened during the summer of 2003.
- Section 37 Created a penalty for late reporting.
- Section 38 Deleted word "charged" and replaced with "written" to clarify the intent of the section and to reflect the practical calculation methodology of taxes paid by insurers
- Section 39 Revised the calculation methodology of late paid taxes by surplus lines brokers under AS 21.34.180 (f). Taxes must be made in the form required by the director. A penalty may be assessed for willful violation of the section and the director may revoke or suspend a broker who fails to pay taxes or late fees.
- Section 40 Amended to include business or commercial policies issued under AS 21.34 as not included under AS 21.36.235 (c)
- Section 41 Amended to include business or commercial policies issued under AS 21.34 as not included under AS 21.36.240
- Section 42 Added a subsection which provides a person is not liable for civil damages for filing a report or furnishing other information concerning a fraudulent act to a person involved in the prevention or detection of fraudulent insurance act or that person's employees, agents or representative. This change allows special investigation units of different insurance companies to share information without potential of liability and is based on the NAIC model act.
- Section 43 Added a subsection which provides that insurance written under AS 21.34 does not apply under this chapter.
- Section 44 Requires rates for the assigned risk pool be established to enable the pool to operate on a self-funding basis
- Section 45 Added language that provides that this section does not apply to policies issued under AS 21.34.
- Section 46 Clarified that a guaranty fund deposit is required for title insurance companies in addition to the required deposit under AS 21.66.010 (b).
- Section 47 Clarified late payment fees and penalties and director's authority to suspend or revoke the certificate of authority for title insurance companies that fail to pay its taxes, a penalty or a late payment fee.

- Section 48,49 Revised AS 21.69.390 to allow domestic insurers with operations entirely outside the state to maintain their records outside of Alaska and provide a process of getting director approval when it is necessary.
- Section 50 Revised wording regarding reinsurance for stock insurers in order to require filing of signed reinsurance agreements.
- Section 51 Revised wording regarding reinsurance for mutual insurers in order to require filing of signed major reinsurance agreements.
- Section 52,53 Revised wording regarding electronic communications and transactions in order to streamline administrative procedures and make them more efficient.
- Section 54 Added definitions for "reinsurance" and "assumption reinsurance."
- Section 55 Repealed sections in order to make state law consistent with NAIC guidelines, other revisions in the bill and to make procedures more efficient. Repeals the trainee license requirements for insurance producers, reinsurance intermediary managers, brokers, managing general agents and surplus lines brokers.
- Section 56 Added new section giving the director of insurance the authority to adopt regulations necessary to implement the changes made in this Act and providing for effective dates.
- Section 57 Added new section instructing reviser of statutes of a heading name

## LETTER OF INTENT

It is the intent of the Legislature that the Division of Insurance should take action to reform and modernize Alaska's system for insurance regulation. In order to preserve state regulation of insurance, state regulation must respond to the changing nature of the business of insurance.

Specifically, the Division of Insurance should study alternative methods for regulating rates and forms and should develop proposals for changing Alaska's existing regulatory system in order to achieve the goals of consumer protection and the fostering of a highly competitive insurance market in Alaska.

AMENDMENT

OFFERED IN THE HOUSE

TO: HCS CSSB 357(L&C)

1 Page 31, following line 11:

2 Insert a new bill section to read:

3 "\* Sec. 58. Section 18 of this Act takes effect July 1, 2005."  
4

5 Renumber the following bill sections accordingly.  
6

7 Page 31, line 13:

8 Delete "sec. 58"

9 Insert "secs. 58 and 59"

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 357(FIN)

1 Page 26, following line 9:

2 Insert a new bill section to read:

3 **\* Sec. 43.** AS 21.39.155 is amended by adding a new subsection to read:

4 (d) Rates for the assigned risk pool shall be established and maintained at a  
5 level that will ensure, to the greatest extent practicable, that the assigned risk pool will  
6 operate on a self-funding financial basis. For purposes of this subsection, "operate on  
7 a self-funding financial basis" means that the assigned risk pool shall charge rates  
8 based upon a combination of approved voluntary loss costs, administrative expenses,  
9 servicing carrier allowances, catastrophe and other reinsurance expenses,  
10 contingencies, and all other factors in AS 21.39.030, so as to be self-funding during  
11 any consecutive three-year period, on a moving average basis."  
12

13 Renumber the following bill sections accordingly.

14

15 Page 30, line 10:

16 Delete "Section 54"

17 Insert "Section 55"

18

19 Page 30, line 11:

20 Delete "sec. 56"

21 Insert "sec. 57"

AMENDMENT

OFFERED IN THE SENATE

TO: SB 357

Sponsored by  
Sen. Wilken by request

1 Page 2, following line 11:

2 Insert a new bill section to read:

3 **\*\* Sec. 2.** AS 21.07.010(b) is amended to read:

4 (b) A contract between a participating health care provider and a managed  
5 care entity that offers a group managed care plan may not contain a provision that

6 (1) has as its predominant purpose the creation of direct financial  
7 incentives to the health care provider for withholding covered health care services that  
8 are medically necessary; nothing in this paragraph shall be construed to prohibit a  
9 contract between a participating health care provider and a managed care entity from  
10 containing incentives for efficient management of the utilization and cost of covered  
11 health care services;

12 (2) requires the provider to contract for all products that are currently  
13 offered or that may be offered in the future by the managed care entity; or [AND]

14 (3) requires the health care provider to be compensated for health care  
15 services performed at the same rate as the health care provider has contracted with  
16 another managed care entity."

17

18 Renumber the following bill sections accordingly.

19

20 Page 29, line 22:

21 Delete "Section 53"

22 Insert "Section 54"

23

- 1 Page 29, line 23:
- 2       Delete "sec. 55"
- 3       Insert "sec. 56"

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 357(FIN)

1 Page 3, following line 2:

2 Insert a new bill section to read:

3 **\*\* Sec. 5.** AS 21.09 is amended by adding a new section to read:

4 **Sec. 21.09.095. Deposit requirement for workers' compensation insurers.**

5 (a) An insurer of workers' compensation shall maintain with an in-state bank  
6 approved by the director a separate deposit equal to the insurer's assumed Alaska  
7 workers' compensation assigned risk pool loss reserves, as determined by the  
8 designated plan administrator, for all years and ceded under the joint and several quota  
9 share reinsurance agreements through which workers' compensation insurers reinsure  
10 risks in the Alaska workers' compensation assigned risk pool. The deposit shall be  
11 maintained as secured collateral for the benefit of other insurers in their capacity as  
12 joint and several reinsurers of the Alaska workers' compensation assigned risk pool.

13 (b) Upon becoming an insolvent insurer as defined in AS 21.80.180 or upon  
14 otherwise failing to timely satisfy its Alaska workers' compensation assigned risk pool  
15 obligations, the insurer's deposit under this section shall be retained as secured  
16 collateral under the control of the director. The director shall make funds from the  
17 deposit available to the designated plan administrator as needed to fund the insurer's  
18 obligations to the Alaska workers' compensation assigned risk pool.

19 (c) The deposit required under this section must consist of cash and  
20 investment assets approved by the director under the regulatory authority in  
21 AS 21.21.420.

22 (d) In this section,

23 (1) "Alaska workers' compensation assigned risk pool" means the

1 assigned risk pool established for workers' compensation under AS 21.39.155;

2 (2) "designated plan administrator" means the person appointed by the  
3 director to operate the assigned risk pool for workers' compensation."  
4

5 Renumber the following bill sections accordingly.  
6

7 Page 30, line 10:

8 Delete "Section 54"

9 Insert "Section 55"

10

11 Page 30, line 11:

12 Delete "sec. 56"

13 Insert "sec. 57"

1 L&C 357 \D

2 Changes Requested

3 Page 27, lines 23-26 amend as follows:

4 (a) **Notwithstanding (b)**, a domestic stock insurer may reinsure a portion or all of its  
5 insurance in force or a major class of its insurance with another insurer by a reinsurance  
6 agreement **and** [BUT] a reinsurance agreement **shall be** [IS NOT EFFECTIVE UNLESS] filed  
7 with [AND APPROVED IN WRITING BY] the director **within 30 days after all parties have**  
8 **signed the agreement. The filings under this subsection shall be considered confidential.**

9  
10 Page 28, lines 11 – 20 amend as follows:

11 (a) A domestic mutual insurer may reinsure **a portion or all of** [OR SUBSTANTIALLY  
12 ALL] its business in force [,] or **a portion or all** [OR SUBSTANTIALLY ALL] of a major class  
13 of its business [,] with another insurer, stock or mutual, by **a reinsurance** [AN] agreement [OR  
14 BULK REINSURANCE AFTER COMPLIANCE WITH THIS SECTION]. **A reinsurance**  
15 [AN] agreement **shall be** [IS NOT EFFECTIVE UNLESS] filed with [AND APPROVED IN  
16 WRITING BY] the director **within 30 days after all parties have signed the agreement and**  
17 **shall be considered confidential. A domestic mutual insurer may reinsure a portion or all**  
18 **of its insurance in force or a major class of its insurance with another insurer by an**  
19 **agreement of assumption reinsurance. An agreement of assumption reinsurance is not**  
20 **effective unless filed with and approved in writing by the director after a hearing [AFTER**  
21 **A HEARING].**

22

23

24

25

26

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 357  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Insurance RDU Insurance (116)  
 Component Insurance Operations  
 Sponsor Senate Labor & Commerce  
 Requester Senate Labor & Commerce Component No. 354

**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          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 legislation makes changes to Title 21 that are necessary to ensure that state statutes are consistent with federal law, the National Association of Insurance Commissioners (NAIC) model acts, standards and guidelines, and updates procedures and transactions related to electronic communications. It has no fiscal impact on the operations of the division.

Prepared by: Linda S. Hall, Director Phone (907) 269-7900  
 Division: Insurance Date/Time 3/5/04 12:44 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/5/2004  
 Agency: Department of Community & Economic Development

**S B**

**3 5 8**

# SENATE COMMITTEE REPORT

DATE: 3/5/04

FURTHER:

DATE TURNED  
IN TO OFFICE: 4/16/04

Labor and Commerce Committee considered SENATE BILL NO. 358

## SB 358 ALASKA RAILROAD TRACK WORK

"An Act relating to the performance of railroad track construction work for the Department of Transportation and Public Facilities by the Alaska Railroad Corporation."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ 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 | Zero | Indet. | FN# |
|------------|--------|--------|------|--------|-----|
| DCED       | 3/2/04 |        | ✓    |        | 1   |
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**PREVIOUS FISCAL NOTE(S):**

| Department | Date | Fiscal | Zero | Indet. | FN# |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Ralph Tebbins</i>            | ✓       |             |        |       |
| <i>Bettye Davis</i>             |         |             | X      |       |
| <i>[Signature]</i>              |         |             | X      |       |
|                                 |         |             |        |       |
|                                 |         |             |        |       |
| CHAIR: <i>A. B. Cude</i>        | ✓       |             |        |       |

## MEMORANDUM OF UNDERSTANDING

This Memorandum Of Understanding ("MOU"), is entered into this fourteenth day of April, 2004, by and between the Alaska Department of Transportation and Public Facilities, hereinafter referred to as "Department", the Alaska Railroad Corporation, hereinafter referred to as "ARRC", Laborer's International Union of North America, Alaska District Council of Laborers hereinafter referred to as "Alaska District Council of Laborers" and the Associated General Contractors of Alaska, hereinafter referred to as "AGC".

### RECITALS

- A. Certain Department highway construction projects necessitate relocation, removal, adjustment, protection or construction of railroad facilities.
- B. Prior to 1998, when it was necessary to relocate railroad facilities because of a proposed Department project, the Department had authority pursuant to 17 AAC 15.511 to enter into a utility relocation agreement with ARRC in accordance with 17 AAC 15.521 authorizing ARRC to perform the relocation work.
- C. In 1998, the State Procurement Code, AS 36.30, was amended to require that the services required to perform railroad facility relocation work, other than signalization and flagging, on a Department project be obtained through the use of a competitive sealed bid or proposal process.
- D. Since 1998 such railroad facility relocation work has been performed by contractors obtained by the Department through a competitive bid process.
- E. Today, there are a minimal number of contractors in Alaska who possess the specialized equipment and skill necessary to construct critical track work in conformance with contract specifications. In order to ensure that track construction conforms to performance specifications and to ensure that service interruptions are minimized for railroad and highway operations, ARRC and the Department are supporting SB 358/HB 529 which proposes to amend the State Procurement Code to give the Department the option to enter into an agreement with ARRC to perform certain railroad facility relocation work as opposed to having to put such work out to bid.
- F. AGC and Alaska District Council of Laborers are willing to support said amendment to the State Procurement Code so long as there are reasonable limitations on the type of work the Department contracts with ARRC to perform and the utility relocation agreement between the parties contains provisions to assure that such railroad facility work is performed in an economical manner and without delay to a contractor's schedule.
- G. It is the purpose of this MOU to establish the type of railroad facility relocation work that the Department may authorize ARRC to perform under a utility relocation

agreement and the terms and conditions under which such work shall be performed in the event that the State Procurement Code is amended to allow the Department to enter into an agreement with ARRC to perform railroad facility relocation work.

THEREFORE, the parties hereby agree as follows:

### AGREEMENT

1. When a Department project involves the construction of rail, ties or ballast for railroad tracks used by ARRC, the Department may enter into a utility relocation agreement with ARRC to perform critical relocation work that could impair, endanger or unreasonably delay ARRC's ability to operate its trains in a safe and timely manner if not performed properly. The scope of such critical work shall be limited to performing the following categories of work: (1) cutovers to a new alignment of ARRC's mainline; (2) the installation or removal of switches on ARRC's mainline; and (3) any other construction work involving rail, ties or ballast, in situations where the Department's contractor is unable to perform railroad facility work in accordance with the Department's contract terms and construction schedule (hereinafter collectively referred to as "critical rail work").

2. The agreement between ARRC and the Department to perform critical rail work shall set out the terms of the work along with the terms of the reimbursement for the costs of the work. The agreement may, in the Department's discretion, provide for a lump-sum payment for the work. The agreement must contain a cost estimate, plans, and a scope-of-work statement as provided in 17 AAC 15.351, 17 AAC 15.361, and 17 AAC 15.371 respectively. Billing and audit of the costs of the critical rail work shall be made in accordance with the provisions of 17 AAC 15.431.

3. The agreement between ARRC and the Department to perform critical rail work shall include a provision requiring ARRC and the Department or its contractor to make every possible attempt to insure the smooth operation/coordination of both the rail traffic and construction schedule and not to interfere with the other. The agreement shall require the parties and the contractor to meet and confer at reasonable intervals to coordinate the work schedules of ARRC's personnel with the work schedule of the Department's contractor in a manner that does not unreasonably delay the performance of each party's work. Pursuant to 17 AAC 15.421(b), ARRC will also be responsible for extra costs resulting from delays to the Department contractor's operations if the railroad facilities are not relocated in accordance with the relocation agreement, except when the delays are beyond the control of ARRC.

4. Nothing in this MOU affects ARRC's right to perform signalization and flagging on Department projects as authorized by AS 36.30.015(i).

5. Unless otherwise provided herein, all notices and communications concerning this MOU shall be addressed as follows:

**Alaska Department of Transportation and Public Facilities:**

Contact Name: Commissioner Mike Barton  
Mailing Address: 3132 Channel Drive  
Juneau, AK 99801-7898  
Telephone: (907) 465-3901  
Fax: (907) 586-8365

**Alaska Railroad Corporation:**

Contact Name: Patrick Gamble  
Mailing Address: P.O. Box 107500  
Anchorage, AK 99510-7500  
Delivery Address: 327 W. Ship Creek Avenue  
Anchorage, AK 99501  
Telephone: (907) 265-2414  
Fax: (907) 265-2312

**Associated General Contractors of Alaska:**

Contact Name: Richard Cattanach  
Mailing Address: 8005 Schoon Street  
Anchorage, AK 99518  
Telephone: (907) 561-5354  
Fax: (907) 562-6118

**Laborer's International Union of North America, Alaska District Council of Laborers:**

Contact Name: Blake Johnson  
Mailing Address: 2501 Commercial Drive  
Anchorage, AK 99501  
Telephone: (907) 272-4571  
Fax: (907) 274-0570

or at such other address as may be designated in writing from time to time to a party by another party.

6. The parties agree to meet and attempt in good faith to resolve any problems or disputes that may arise in the performance of this agreement by negotiation between representatives of the respective parties.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the dates written below.

Alaska Railroad Corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Alaska Department of Transportation  
and Public Facilities

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Associated General Contractors of Alaska

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Laborer's International Union of North  
America, Alaska District Council of  
Laborers

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

# SHAUB & ASSOCIATES

217 Second Street, Suite 206  
Juneau, Alaska 99801  
Phone: 463-5118 Fax: 463-5128  
Thyes@aol.com

March 5, 2004

**To: Representative Tom Anderson, Chairman  
House Labor & Commerce Committee**

**From: Thyes Shaub**

**Subject: <sup>SB 358</sup> HB 529 Railroad Legislation -- AGC Support**

---

Dick Cattanach is out of state and asked that I let you know of the  
Associated General Contractors support of HB 529.

<sup>SB 358</sup>

AGC has been working with the Railroad and DOT to come up with a plan  
for implementing this legislation.

THE  
FOLLOWING  
DOCUMENT(S)  
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POOR  
ORIGINAL  
COPIES

**MECHANICAL INSULATION SERVICES, INC.**

6130 NIELSON  
ANCHORAGE, ALASKA 99518  
(907) 561-3395 ♦ FAX 561-3396

Honorable Senator Con Bunde  
Chairman Labor and Commerce Committee

March 19, 2004

Dear Sir,

Our company is a small construction company that has diversified into various contracting businesses including railroad construction. We have bid work in the past and plan to continue bidding future work in Alaska. At this time we have a contract under performance. While performing under the contracts offered by the Alaska Railroad we hire personnel within the local Unions. In the interest of preserving our future position within this Industry we would appreciate your support in rejecting S.B.358, which was presented by the Alaska Railroad Corp..

Sincerely,

Ed Biesecker



Contract Manager

Mechanical Insulation Services, Inc



Railway Support Services, LLC  
8638 Rosewood  
Anchorage, Alaska 99518  
(505) 228-8989 Cell

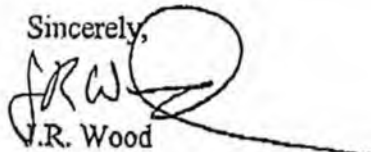
March 18, 2004

Honorable Senator Con Bunde  
Chairman of Labor and Commerce Committee

Dear Sir,

Railway Support Services is a small construction company performing railroad construction and professional railroad services within the U.S. We have bid work and plan to continue bidding future work in Alaska. We currently have small equipment used for maintenance and construction purposes in Anchorage where it can be utilized as the need arises. While performing under the contracts offered by the Alaska Railroad we hire personnel within the local Unions and have jointly trained laborers at the Alaska Laborer's Training Center. In the interest of preserving our future position within Alaska we would appreciate your support in rejecting S.B.358, which was presented by the Alaska Railroad Corp..

Sincerely,

  
J.R. Wood  
Pres. RSSLLC

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 358  
 (S) Publish Date: 3/5/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Alaska Railroad Track Work RDU Alaska Railroad Corporation  
 Component \_\_\_\_\_  
 Sponsor Senate Transportation  
 Requester Senate Transportation Component No. \_\_\_\_\_

**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          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 legislation would allow the Department of Transportation and Public Facilities to enter into an agreement with the Alaska Railroad Corporation (ARRC) for the ARRC to perform the construction of rails, ties or ballast for railroad tracks used by the ARRC. The ARRC may perform the work itself without procuring a contractor to provide the supplies, services, professional services or construction services necessary for the work.

The ARRC is a public corporation supported by revenues generated through its freight, passenger and real estate services. ARRC does not receive state subsidies for operations or capital improvements from the State.

Prepared by: Wendy Lindskoog, Director of External Affairs Phone (907) 269-2498  
 Division Alaska Railroad Corporation Date/Time 3/3/04 3:23 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/3/2004  
 Agency Department of Community & Economic Development

SENATOR  
JOHN J. COWDERY

Anchorage

Committees

Chair: Rules  
Chair: Transportation  
Chair: World Trade &  
State/Federal Relations  
Legislative Council  
State Affairs



Senate

January - May:  
State Capitol, Suite 101  
Juneau, Alaska 99801-1182  
Tel: 907-465-3879  
Toll Free: 888-269-3879  
Fax: 907-465-2069

May - December:  
716 W. 4th Avenue  
Anchorage, Alaska 99501  
Tel: 907-269-0222  
Fax: 907-269-0223

Senator\_John\_Cowdery@legis.state.ak.us

### **SPONSOR STATEMENT FOR SB 358**

---

*"An Act relating to performance of railroad track construction work for the Department of Transportation ... by the Alaska Railroad ..."*

Senate Bill 358 amends the procurement code so that the Department of Transportation and Public Facilities (ADOT/PF) can work directly with the Alaska Railroad Corporation (ARRC) on track work through a reimbursable service agreement similar to other utilities (i.e. power and water lines).

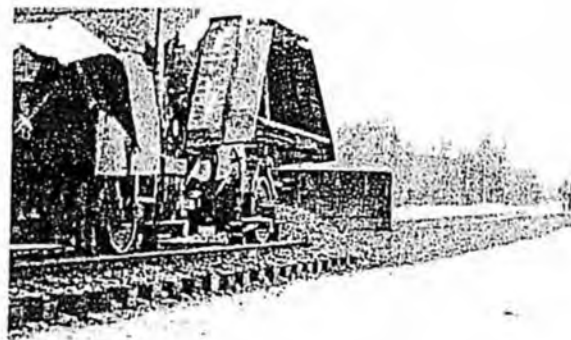
Prior to 1996, ARRC could conduct track work for DOT projects under utility agreements. After 1996, the procurement code was amended requiring DOT/PF to contract for track work under the competitive bid process. For a time, contractors bid – and won – such work. Recently, however, contractors have shown less interest in bidding such work. They don't have the specialized, expensive equipment to conduct the work, and they experience high costs trying to meet the specifications required.

To remedy this situation and ensure DOT/PF projects move forward, SB 358 will allow DOT/PF the flexibility to use either the competitive bid process or to work directly with the Alaska Railroad.

The advantage of this arrangement for DOT/PF is possible lower costs and a savings of time. The advantage for the Alaska Railroad will be enhanced quality and assurance that industry standards met.



An ARRC employee at the controls of a \$400,000 track tamper, which automatically adjusts track to tight tolerances.



A ballast regulator spreads ballast over new track construction.



ARRC employees are Alaskans, trained to work safely in the federally regulated railroad environment.

**ALASKA RAILROAD CORPORATION**  
**Senate Bill 358, House Bill 529**  
**Allows Railroad to Perform Track Work on ADOT/PF Projects**

**BACKGROUND:** Prior to 1996, the Alaska Railroad Corporation (ARRC) was treated like other utilities performing relocation work required by Alaska Department of Transportation and Public Facilities (ADOT/PF) projects. When utilities such as power lines and waterlines need to be relocated, ADOT/PF issues a separate agreement with the utility for such work rather than using a third party contractor. The advantage of this arrangement for ADOT/PF is possible lower costs, and the utility is responsible for quality and warrantee. The advantage for the utility is often enhanced quality, assurance that industry standards are met, and a streamlined project.

After the procurement code was amended in 1996, ADOT/PF was required to contract for track work under the competitive bid process. While ARRC had the option to bid on track work, ARRC does not operate as a contractor and our labor contracts do not currently support payment as defined in the "Prevailing Wage Act".

**PROPOSAL:** Amend the procurement code allowing ADOT/PF to use either the competitive bid process or work directly with ARRC on track work through a reimbursable service agreement similar to other utilities.

**BENEFITS:**

- DOT will save money
  - DOT must fully develop bid specifications if it contracts for railroad work. This usually is not required when ARRC performs the work to its own standard specifications.
  - Inspection and other railroad specialty items are inclusive in the ARRC crew. With a railroad contractor, the ARRC must still provide federally required inspection and coordination with railroad operations.
  - DOT can deal directly with the ARRC on a reimbursable or lump sum basis. Expensive contractor mobilization is avoided. Excessive contractor premiums will be avoided for this small specialty market.
  - The ARRC buys railroad materials in quantity and is able to pass along this savings.
- DOT will save time
  - It takes time to develop specifications required for contractor bidding.
  - The ARRC is "on site" 365 days a year and ready to respond.
  - ARRC is responsible for the coordination of work with train operations, with contractor; DOT is interface to ARRC and contractor.
- ARRC's core business is operating and maintaining the railroad.
- ARRC has the specialized equipment required for railroad work. Contractors must mobilize this equipment from the Lower 48. This equipment includes large machines that cost several hundred thousand dollars.
- ARRC has skilled manpower on hand to perform the work. These are Alaskans ready and able to do the work. All funds stay in Alaska, no outside specialized contractor or labor.

**HB**

**365**

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 3/17/04

FURTHER: Finance

Date of 5-Day Notice: \_\_\_\_\_  
 in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: 4/1/04

Labor and Commerce Committee considered SENATE BILL NO. 365

**SB 365 SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS**

An Act relating to the regulation of speech-language pathologist assistants; 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:**  
 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# |
|------------|---------|--------|--------|------|-----|
| DCED       | 3/23/04 | ✓      |        |      |     |
|            |         |        |        |      |     |
|            |         |        |        |      |     |
|            |         |        |        |      |     |
|            |         |        |        |      |     |

**PREVIOUS FISCAL NOTE(S):**

| Department | Date | Fiscal | Indet. | Zero | FN# |
|------------|------|--------|--------|------|-----|
|            |      |        |        |      |     |
|            |      |        |        |      |     |
|            |      |        |        |      |     |
|            |      |        |        |      |     |
|            |      |        |        |      |     |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | Do PASS | Do NOT PASS | No REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Ralph Seebin</i>             | ✓       |             |        |       |
| <i>Betty Davis</i>              | X       |             |        |       |
| <i>[Signature]</i>              |         |             | X      |       |
|                                 |         |             |        |       |
|                                 |         |             |        |       |
| CHAIR: <i>[Signature]</i>       | ✓       |             |        |       |

# Alaska State Legislature

*DURING SESSION*  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
(907) 465-4843 (800) 892-4843  
FAX: (907) 465-3871

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*E-MAIL*  
[Senator.Con.Bunde@legis.state.ak.us](mailto:Senator.Con.Bunde@legis.state.ak.us)

## SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE  
CHAIR: SENATE LABOR & COMMERCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

### **Sponsor Statement** **SB365 Speech-Language Pathology Assistants**

SB365 establishes registration of speech-language pathology assistants through the department of occupational licensing regardless of employment setting. Currently, speech-language pathology assistants (SLPA), in Alaska, are not licensed or regulated like the similar professions of physical and occupational therapy assistants. SB365 outlines the qualifications and training required to be an SLPA, their scope of practice, supervision and continuing education requirements.

Due to shortages in the number of qualified speech-language pathologists, many Alaskans are not receiving the consistency and appropriate amount of services they require. An SLPA will be able to assist the speech-language pathologists in clerical duties, charting progress, developing materials and assisting in other therapy services within their scope of practice. SLPAs will not be allowed to work independently of a speech-language pathologist or be given the sole responsibility of their own case/workload. SLPAs will be under the direction and supervision of a qualified and licensed Speech-Language Pathologist.

It is not the intent of SB365 to hire an SLPA in lieu of a qualified speech-language pathologist. SLPAs are to enhance the services provided.

All regions of Alaska will benefit from the use SLPAs. SLPAs will be able to enhance services in schools, private clinics, the underserved rural/remote areas, and in hospital settings. Having an assistant will allow the speech-language pathologist additional time to assess an individual's progress, write treatment plans, confer with medical and other professionals, attend meetings and complete other administrative duties as required. The recipients of speech-language pathology services will benefit the most, as they will have consistent services from appropriately trained individuals, which will decrease the length of treatment and thereby decreasing costs. Since many recipients of speech-language services receive assistance through Medicaid/Medicare, that cost savings is then passed on to the citizens of Alaska.

## Changes made to SB 365

The four changes that were made in Senate Finance to SB 365 were technical language changes throughout the bill that clarified that SPLAs should not conduct feeding and swallowing *screenings*.

We made the following changes to SB 365 (CS Version Q) in order to have all sections of the bill be in conformance with ASHA (American Speech Language Hearing Association) preferred practice patterns for speech-language pathology. It was recommended by Ms. Susan Pilch, Director, State Legislative and Regulatory Advocacy, ASHA, that the following changes be made to this bill to make it even stronger. Ms. Pilch reminded us that while SLPAs may perform feeding and swallowing treatment under the supervision of a certified Speech-Language Pathologist, they may not conduct feeding and swallowing screenings.

In order to have these specific changes be clear throughout all sections of SB 365, the following were necessary so that our intent to prohibit feeding and swallowing screenings by SLPAs would be achieved.

Sec. 08.11.042 (b) **page 2, line 26** "direct screening" was deleted.

Sec. 08.11.042 (c) **page 2, line 31** "new" was deleted from the former phrase "new screening."

Sec. 08.11.042 (e) **page 4, line 9** deals with what registered SLPAs are not permitted to do, that the following be added, "perform screening of feeding or swallowing functions."

Sec. 08.11.200 (11) **page 10, line 12** clarifies the definition of screening.

The new amended version reads,

"screening" means a procedure in which a client is identified by either "pass" or "fail" for purposes of necessitating further evaluation of speech, language or hearing.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 365  
 (S) Publish Date: 4/2/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Speech-Language RDU Occupational Licensing (117)  
Pathologist Assistants Component Occupational Licensing  
 Sponsor Senate Labor and Commerce  
 Requester Senate Labor and Commerce Component No. 2360

**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      | 0.8        | 0.8        | 0.8        | 0.8        | 0.8        | 0.8        |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                                    |            |            |            |            |            |            |
|------------------------------------|------------|------------|------------|------------|------------|------------|
| <b>CHANGE IN REVENUES ( 1156 )</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> |
|------------------------------------|------------|------------|------------|------------|------------|------------|

**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other 1156 - Receipt Supported Services | 0.8        | 0.8        | 0.8        | 0.8        | 0.8        | 0.8        |
| <b>TOTAL</b>                            | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> | <b>0.8</b> |

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)

SB 365 creates registration for Speech-Language Pathologist Assistants. Currently there are 121 licensed Speech-Language Pathologists. Based on similar programs that register assistants, this fiscal note assumes that at least 10% of the current licensee number will register to become an Assistant (at least 12 registrants). The expenditure shown above is based on 10% of the FY03 Speech-Language Pathologist costs. Speech-Language Pathologist Assistants will be expected to cover these costs through registration fees.

Based on biennial costs of \$1.6, registrants can expect to pay a biennial registration fee of approximately \$133.00.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division: Occupational Licensing Date/Time 3/23/04 3:10 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/23/2004  
 Agency: Department of Community and Economic Development

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
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STATE OF ALASKA

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Juneau, Alaska 99801-1182  
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## MEMORANDUM

March 31, 2004

**SUBJECT:** Speech- Language Pathologist Assistants SB 365  
(Work Order No. 23-LS0504H)

**TO:** Senator Con Bunde  
Attn: Jane Alberts

**FROM:** Jean M. Mischel  
Legislative Counsel



You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Authorizes a temporary speech-language pathology license for persons who are in the process of completing supervised clinical experience.

**Section 2.** Adds reference to registration of speech-language pathologist assistants to lapsed license provision.

**Section 3.** Adds reference to registration of speech-language pathologist assistants to suspended license provision.

**Section 4.** Adds new sections pertaining to the activities, qualifications, and supervision of registered speech-language pathologist assistants. Authorizes the Department of Community of Economic Development to regulate speech-language pathologist assistants.

**Section 5.** Adds speech-language pathologist assistant registration application and renewal to list of fees that must be set by the Department of Community and Economic Development.

**Section 6.** Adds a new section relating to grounds for imposition, after a hearing, of disciplinary sanctions on a speech-language pathologist assistant.

**Section 7.** Adds references to speech-language pathologist assistants for purposes of imposition of disciplinary sanctions by the Department of Community and Economic

Development.

**Section 8.** Adds a reference to speech-language pathologist assistant registrants to summary suspension provision.

**Section 9.** Adds a reference to speech-language pathologist assistant registrants to reinstatement provision.

**Section 10.** Adds a reference to speech-language pathologist assistant registrants to provision allowing for reinstatement after revocation of a registration in certain circumstances.

**Section 11.** Adds a new subsection authorizing the Department of Community and Economic Development to place a registered speech-language pathologist on probation in certain circumstances.

**Section 12.** Defines different types of "supervision" and defines "screening" as used in this Act.

**Section 13.** Establishes a July 1, 2004 effective date for the Act.

JMM:med  
04-345.med

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AMERICAN  
SPEECH-LANGUAGE-  
HEARING  
ASSOCIATION

March 31, 2004

Alaska Speech-Language Hearing Association  
Nancy Lovering, President  
4325 Laurel Street- Suite 100  
Anchorage, AK 99508

Dear Ms. Lovering:

The American Speech-Language-Hearing Association (ASHA) would like to formally express our support for Alaska S.B. 365. ASHA is the professional, credentialing and scientific organization that represents more than 114,000 audiologists; speech-language pathologists; and speech, language and hearing scientists nationwide.

We have examined the text of S.B. 365 and would like to focus our comments on the topic of speech-language pathology assistants. S.B. 365 is well written, comprehensive and generally consistent with ASHA policy and guidelines on the use of speech-language pathology support personnel. The bill does an excellent job of clearly delineating the tasks that are allowed and prohibited to be performed by speech-language pathology assistants.

With the passage of this legislation, Alaska would be joining 31 other states that currently regulate the use of speech-language pathology support personnel. Of these 31 states, 22 states regulate through registration, similar to the proposed Alaska bill. In addition, the sections of S.B. 365 that pertain to education/experience required, title, continuing education and supervision all fall within the spectrum of other state requirements ensuring that speech-language pathology assistants in Alaska would be comparable to assistants in other states.

We feel that the bill could be made even stronger by making some minor changes and we have detailed suggested amendment language for you in the attached e-mail. If you have any questions or concerns, please contact me at [spilch@asha.org](mailto:spilch@asha.org) or at (301) 897-5700, ext. 4284.

Sincerely,

Susan Pilch  
Director, State Legislative and Regulatory Advocacy

1. Under Section 08.11.042(b) we recommend that you strike the words "direct screening." This would bring the section into conformance with the ASHA preferred practice patterns for speech-language pathology that provide that while assistants may perform feeding and swallowing treatment, they may not conduct feeding and swallowing screening.
2. Under Section 08.11.045(3)(d) we would recommend that you specify that a "full-time" speech-language pathologist may not supervise more than two individuals. You may also wish to add a sentence that specifies that a "part-time speech-language pathology assistant may not supervise more than one assistant."
3. In addition, we would recommend that you include a statement similar to "A speech-language pathology assistant may not be assigned his or her own caseload" and "a school district that intends to utilize the services of a speech-language pathology assistant must provide written notification to the parent or guardian of each student served by a speech-language pathology assistant." All of the recommendations listed in this paragraph and the one prior are provisions that have been included in various state statutes and regulations pertaining to support personnel.



Senator Con Bunde  
State Capitol  
Juneau, AK 99801-1182

Senator Bunde;

I am writing in support of SB 365 and encourage your support. This bill will assist in the regulation of speech-language pathology assistants working with Alaskan children and adults with communication impairments. Nationwide there is a shortage of certified speech-language pathologists and in Alaska there is also such a shortage. Many of our remote areas rely on instructional assistants to implement services when the speech-language pathologist cannot be there. Additionally, speech-language pathologists in other work settings (i.e. hospitals, urban schools, clinics) are finding the need for qualified service delivery personnel to assist in implementing services.

Speech-language pathology assistants would be highly trained in their field with an AA or BA degree and a minimum of 100 hours supervised clinical practicum by a certified speech-language pathologist. In addition, these qualifications will satisfy the requirements for No Child Left Behind. The importance of trained speech-language pathology assistants cannot be ignored. The consistency and quality of services to people in need would be greatly enhanced.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Nancy C. Lovering".

Nancy C. Lovering  
President- Alaska Speech and Hearing Association  
4325 Laurel St., Suite 100  
Anchorage, AK 99508  
907-562-8262

**Cara Leckwold, M.A. CCC-SLP**  
**4325 Laurel St. #100**  
**Anchorage, AK, 99508**  
**(907)561-8775**

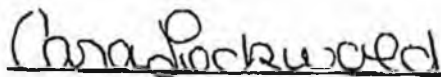
Senator Con Bunde  
Staten Capitol  
Juneau, AK 99801-1182

Dear Senator Bunde:

I am writing in support of SB 365 and to encourage your support. This bill will assist in the regulation of speech-language assistants working with children and adults with communication impairments. As I am sure you are aware, there is a national shortage of certified speech-language pathologists, and this has had a tremendous impact on the availability of services to people in Alaska with speech and language disorders. As a result of this shortage, many of our remote and undeserved areas must rely on assistants to implement services when a certified speech-language pathologist is not available.

Speech-language pathology assistants would be required to be highly trained in their field, have an Associate or Bachelor degree, and a minimum of 100 hours of clinical practicum supervised by a certified speech-language pathologist. These requirements of qualification would satisfy the requirements for the No Child Left Behind Act. The importance of having trained speech-language assistants cannot be ignored. The consistency and quality of services to people with communication disorders would be greatly enhanced by the implementation of this bill.

Thank you for your consideration.



Cara Leckwold, M.A. CCC SLP  
Speech Language Pathologist  
ASHA #: 01083614  
AK Lic. # 10



## Southwest Region School District

P.O. Box 90  
574 Kenny Wren Road  
Dillingham, AK 99576

(907) 842-5287 • Phone  
(907) 842-5428 • Fax

To Whom It May Concern:

I am writing in support of the bill that will create regulations for SLP Assistants. As a rural speech pathologist serving nine villages, I have to rely on instructional assistants and special education teachers to deliver services when I'm not in the village. I can only visit my villages twice a month so that leaves a significant amount of time that these people are delivering services for me. Even though I have given them training, it is not the same as having someone who has graduated from a college program specifically designed for the purpose of delivering speech/language services. These assistants will be highly qualified which will satisfy the NCLB requirements.

Having a SLP Assistant deliver services under my supervision will allow me the time I don't have now to consult with teachers, medical personnel and others as well as give me the opportunity to train staff, attend meetings and complete the mountain of paperwork I have. The quality and consistency of services provided to my students will be greatly improved. Although the assistants will be highly qualified, they still need guidelines to work within. This bill will provide that.

*Aleknagik*

*Clark's Point*

*Ekwok*

*Koliganek*

*Manokotak*

*New Stuyahok*

*Portage Creek*

*Togiak*

*Twin Hills*

Sincerely,

Tina Clumpner M.S., CCC-SLP  
Speech-Language Pathologist  
Southwest Region Schools

**Subject: SLP Assistants**

**Date:** Mon, 29 Mar 2004 13:46:13 -0900

**From:** "mary@ptialaska.net" <marylang@ptialaska.net>

**To:** <Jane\_Alberts@legis.state.ak.us>

**CC:** <campbell@alaska.net>

I would like to encourage the passing of SB 365 " An Act relating to the regulation of speech-language pathology assistants; and providing for an effective date." Certified, licensed Speech/Language Pathologists are in short supply in Alaska. Programs have been in effect to educate Assistants in field appropriately to work under the supervision of licensed personnel. Their scope of practice is limited to skills developed during the acquisition of the AA or the BA. They would enhance the services available at present, offered through the SLP. Having these personnel available will allow the SLP time to consult with medical personnel and other service providers, attend meetings, evaluate, and complete other administrative duties as required. There are a number of these people available in the state at present, having gone through the AA program through Prince William Sound. Implementing them will be a tremendous help to both private therapists and school personnel increasing the frequency of service throughout the system.

Mary J. Toutonghi, MS, CCC-SLP-L



Alaska  
Speech &  
Language  
Depot INC.

1731 S. Bragaw St., Anchorage, AK 99508

Phone (907) 522-0078

Fax (907) 279-0331

www.alaskaspeech.com

March 29, 2004

**SB365** "An act relating to the regulation of speech-language pathology assistants; and providing for an effective date."

This letter is in support of SB365. Please consider the following points:

The State of Alaska currently has a shortage of certified Speech-Language Pathologists, in all work settings. Presently, there are students participating in long-distance education programs to obtain their master's degree in this field, to help alleviate this shortage. Alaska does not have a degree program for Speech-Language Pathology so residents have to choose whether to reside in Alaska and participate in a distance-learning program or spend their education dollars outside. SB365 will allow these students to complete their supervised practicum and Clinical Fellowship, which are required for certification from the American Speech-Language Hearing Association and to be licensed in Alaska. Without SB365 these students would have an extremely difficult time fulfilling the requirements for their degrees while residing in Alaska.

SB365 will allow for qualified and appropriately trained assistants in the field of Speech-Language Pathology. These assistants will enhance the services currently provided in Alaska. Each assistant will be supervised by a certified & licensed Speech-Language Pathologist.

Alaska needs SB365 to be passed. Please support this bill.

Sincerely,

Cheryl Campbell, M.A., CCC  
Speech-Language Pathologist / President

**Subject: SB365****Date:** Fri, 26 Mar 2004 16:10:22 -0900**From:** Bruce & Nancy Steely <bnsteely@gci.net>**To:** Jane\_alberts@legis.state.ak.us**CC:** campbell@alaska.net

I am writing in support of SB365. I am a practicing Speech/Language Pathologist in the Anchorage School District and have been employed in this field for over 20 years. I have seen many changes over the years, notably the extreme shortage of qualified ("highly qualified" as we now call them) Speech/Language Pathologists. I currently serve two elementary schools. I have, over the years, required the very able assistance of "speech assistants". My total caseload, this year, is such that I am again using an assistant. I am fortunate to have a person who is working on her SLPA degree. The level of professionalism and knowledge she brings to the job is superior and provides my students with the necessary follow-through of the therapy plan.

**ANNE VER HOEF MA, CCC-SLP***Speech - Language Pathologist*

5820 Yukon Road  
Anchorage, Alaska 99507  
(907) 345-4422  
Fax (907) 345-4422

**LETTER IN SUPPORT OF  
SB365****An Act related to regulation of speech-language pathology assistants; and providing  
an effective date**

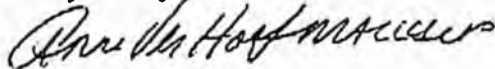
Dear Legislators:

This letter is in support of passing SB365 and the counterpart to be sent to the House regarding the regulation of speech-language pathology assistants and speech-language pathologists in their Clinical Fellowship Year (CFY).

Speech-language pathologists in their CFY have completed their Master's Degree in Speech-Language Pathology and all requirements by our national certifying agency, ASHA, with the exception of the Clinical Fellowship Year (CFY). During this 9-12 month period, the CFY candidate may be working as a Speech-Language Pathologist in various settings but is still supervised (more of a mentoring) by a certified and licensed SLP. SB365 would allow a SLP-CFY to obtain a temporary license, which is only appropriate for the scope of work the person is doing. They are providing professional services and this will help to clarify their status with various employment sites and reimbursement entities.

With regard to speech-language pathology assistants (SPL-A), SB365 will clarify the scope of practice, qualified personnel and increase the quality of services provided to Alaskans with impairments of communication, cognition and swallowing. The services provided by a SPL-A are under the direct guidance and supervision of a qualified speech-language pathologist and may occur in such varied settings as schools, hospitals, long-term care facilities and in the home. There is a critical shortage of service providers in a state with the geographical challenges of Alaska; but even in Anchorage certified speech-language pathologists are unable to cover the needs of those requesting and requiring services. This bill will help to ensure that qualified assistants may provide supportive services and Alaskan will benefit from obtaining medically necessary or educationally mandated services.

Thank you for your time and consideration in this matter.



Anne Ver Hoef, M.A., CCC-L-SLP  
Speech-Language Pathologist, Certified, Licensed



April 9, 2004

**SB365** "An act relating to the regulation of speech-language pathology assistants; and providing for an effective date."

This letter is in support of SB365. This bill will be heard in Senate Finance on Friday, April 16. Please consider the following points:

The State of Alaska currently has a shortage of certified Speech-Language Pathologists, in all work settings. Presently, there are students participating in long-distance education programs to obtain their master's degree in this field, to help alleviate this shortage. Alaska does not have a degree program for Speech-Language Pathology so residents have to choose whether to reside in Alaska and participate in a distance-learning program or spend their education dollars Outside. SB365 will allow these students to complete their supervised practicum and Clinical Fellowship, which are required for certification from the American Speech-Language Hearing Association and to be licensed in Alaska. Without SB365 these students would have an extremely difficult time fulfilling the requirements for their degrees while residing in Alaska.

SB365 will allow for qualified and appropriately trained assistants in the field of Speech-Language Pathology. These assistants will enhance the services currently provided in Alaska. Each assistant will be supervised by a certified & licensed Speech-Language Pathologist.

Alaska needs SB365 to be passed. Please support this bill.

Sincerely,

Cheryl Campbell, M.A., CCC  
Speech-Language Pathologist / President

## Fast Facts for SB365

SLP= Licensed/Certified Speech-Language Pathologist

SLPA= Speech –Language Pathology Assistant

### Concerns:

**Currently Alaska does not have standards/regulations for SLP Assistants.**

- Many school districts have special education aides assigned to SLPs. Aides have high school degrees, no training in speech –language specific techniques/therapies. There are not any supervision standards established or continuing education requirements. A scope of practice is not outlined and there are concerns with liability of untrained personnel providing medically related treatments (voice therapy, swallowing and feeding) and following established and proven service practices.
- With shortages of SLPs, specifically in rural areas, services cannot be provided as frequently as required.
- SLPs frequently are in a community a few days a month and need appropriately trained assistants to help provided needed services.
- Without regulations- the SLP workload increases because they have to train the new employee instead of working with clients or completing required paperwork/ billing. Hiring an appropriately trained SLPA will save time and money for the employers.
- With regulations for SLPAs, employers will be able to bill third parties and be paid for services provided.
- Regulations will prevent someone with a 2- year assistant's degree from working as an independent contractor/provider.
- **The 2-year degree requirement for SLPAs is aligned with the Federal regulations of No Child Left Behind.**

- 1) **31 states currently regulate SLPAs and 22 of those states have regulations similar to what is outlined in SB365** (including supervision, continuing education and initial training and practical experience). This ensures that speech-language pathology assistants in Alaska will be comparable to assistants in other states.
  
- 2) **Approximately 210 ASHA certified SLPs in AK.**  
Of this, 121 SLPs are licensed through State of AK- occupational licensing to work in private practice, hospitals, or other non-school settings. SLPs are not required to hold ASHA certification to work for a school district- but they must have a Master's degree.
  
- 3) **Number of SLPs in schools not currently available:**  
**A request has been made to DEED: Difficulty in obtaining information is due to:** SLPS can be certified with Type A (reg ed certificate w/ endorsement in SLP) or Type C (special services- SLP) Certification from DEED is not standardized for job title: Speech Language Pathology, Speech therapist, Communication Disorders Specialist, Speech/Hearing Sciences
  
- 4) **Approximate number of SLPs in larger school districts:**  
**ASD- 70. Juneau 9, Mat-Su 24, FBKS 20 and Kenai (central peninsula area) 20**
  
- 5) **Approximate number of non-regulated paraprofessionals working with SLPs in schools:** Anchorage 11, Kenai (central peninsula area) 2, Mat-Su SD 4, Juneau 1, Fbks 20
  
- 6) **SLPA program- Distance Delivery program through Prince William Sound Community College- in cooperation with UAA.** Has been in existence for 3 years. 10 graduates to date. Approximately 20 students enrolled in the SLPA program. 2/3 of current students are from rural areas. Several have indicated wanting to continue on to a BA or MA degree. Some students already have BA degrees and are going through the program to update their skills and get the needed practical experience to be an SLPA.

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# Frequently Asked Questions

## Speech-Language Pathology Assistants

(Updated 2/25/04)

The American Speech-Language-Hearing Association (ASHA) has a position statement and guidelines on the training, use, and supervision of speech-language pathology assistants. ASHA also has resources for supervisors of assistants and continues to support the appropriate training, use, and supervision of speech-language pathology assistants by ASHA-certified speech-language pathologists. Speech-language pathology assistants are to be used only to supplement--not supplant--the services provided by ASHA-certified speech-language pathologists. Speech-language pathology assistants are not trained for independent practice.

**NOTE:** ASHA's position statement and guidelines on the training, use, and supervision of speech-language pathology assistants have been revised and are currently undergoing peer review, with comments due by March 5, 2004.

### A. Defining Speech-Language Pathology Assistants

1. Who are speech-language pathology assistants? Answer
2. Are there other forms of support personnel? Answer
3. Is the use of speech-language pathology assistants new? Answer
4. Will speech-language pathology assistants be used to replace ASHA-certified speech-language pathologists? Answer
5. Is there a need for speech-language pathology assistants? Answer
6. What is the demand for speech-language pathology assistants? Answer
7. What are the advantages to the ASHA-certified speech-language pathologist in using speech-language pathology assistants in his or her practice? Answer

### B. Using Speech-Language Pathology Assistants

1. What may speech-language pathology assistants do? Answer
2. What is outside a speech-language pathology assistant's scope of responsibilities? Answer
3. What is the average salary for speech-language pathology assistants? Answer
4. How will this program affect the culturally and linguistically diverse professional population? Answer
5. Who is responsible for services provided by a speech-language pathology assistant? Answer
6. Will caseloads expand when assistants are used? Answer

### C. Supervising Speech-Language Pathology Assistants

1. Who can supervise speech-language pathology assistants? Answer
2. Is the speech-language pathologist supervising a speech-language pathology assistant required to have a course in supervision? Answer
3. What resources on supervision does ASHA have available? Answer
4. If an ASHA-certified speech-language pathologist with less than two years' experience joins a program with an experienced speech-language pathology assistant, should the assistant be terminated to meet ASHA's 1995 guidelines? Answer
5. How much supervision is recommended? Answer

### D. Credentialing Speech-Language Pathology Assistants

1. Does ASHA credential speech-language pathology assistants? Answer

2. How does one become a speech-language pathology assistant? Answer
  3. Is continuing education required for a speech-language pathology assistant? Answer
  4. Is the use of speech-language pathology assistants permitted in every state? Answer
- E. Training Speech-Language Pathology Assistants
1. Is this a career ladder? Answer
  2. What information is available to help a training institution start a speech-language pathology assistant training program? Answer
  3. Can an institution establish a speech-language pathology assistant training program in a state that prohibits the use of speech-language pathology assistants? Answer
  4. How can I find qualified speech-language pathology assistants? Answer
  5. How many training programs are there for speech-language pathology assistants? Answer
- F. Reimbursing Speech-Language Pathology Assistant Services
1. Who makes the determination of what constitutes a "skilled" versus a "non-skilled" activity, in terms of rate of reimbursement for speech-language pathology (SLP) and speech-language pathology assistant (SLPA) services? Answer
  2. Since there is no clear definition of supervision in Medicare regulations, how should facilities approach the intermediary for a ruling? Answer
  3. What is being done to assure Medicare coverage of services rendered by a credentialed SLPA? Answer
- G. Fieldwork for Speech-Language Pathology Assistant Student Trainees
1. Must the fieldwork hours completed by SLPA students be performed at specific types of settings or distributed across specific age groups or disorders? Answer
  2. Does the minimum of 100 clock hours of fieldwork include observation hours? Answer
  3. When SLPA students are engaged in patient/client contact, does ASHA require that they receive direct supervision or indirect supervision for the specified minimum of 50% of the time? Answer
  4. When SLPA students are placed in fieldwork settings, can they be supervised by more than one SLP? Answer
  5. Must the supervisor of an SLPA student in an external fieldwork placement hold a current Certificate of Clinical Competence in Speech-Language Pathology (CCC-SLP) from ASHA, or can he/she hold state licensure only? Answer
  6. How many years experience does the supervisor need to have to supervise an SLPA student who wishes to apply for ASHA registration? Answer

## A. Defining Speech-Language Pathology Assistants

### 1. Who are speech-language pathology assistants?

Speech-language pathology assistants (SLPAs) are support personnel who, following academic and/or on-the-job training, perform tasks prescribed, directed, and supervised by ASHA-certified speech-language pathologists.

### 2. Are there other forms of support personnel?

There are typically two levels of support personnel – aides and assistants. Based on level of training, these support personnel may have a different scope of responsibilities in the work setting. Aides, for example, have a different, usually narrower, training base and a more limited scope of responsibilities than speech-language pathology assistants. States may use different terminology to refer to support personnel in speech-language pathology (e.g., communication aides, paraprofessionals, service extenders).

### **3. Is the use of speech-language pathology assistants new?**

Speech-language pathology assistants have been used and regulated by many states since the 1970s. ASHA has had guidelines for the use of support personnel since 1969. Attention to the use of assistants has increased as professionals seek mechanisms for expanding services and containing costs. In November 2000, ASHA began development of an approval process for associate degree SLPA training programs and a registration process for SLPAs. The approval process was effective January 2002, and the registration process was effective January 2003. However, at its Spring 2003 meeting, ASHA's Legislative Council voted to discontinue both the registration program for SLPAs and the approval process for SLPA training programs as of December 31, 2003, due to financial reasons.

### **4. Will speech-language pathology assistants be used to replace speech-language pathologists?**

No. Assistants cannot replace qualified speech-language pathologists. Rather, they can support clinical services provided by speech-language pathologists. ASHA guidelines were developed to ensure that speech-language pathology services provided to the public are of the highest quality and that speech-language pathologists continue to be responsible for maintaining this quality of service. According to ASHA guidelines and state licensure laws, no one can employ a speech-language pathology assistant without a speech-language pathologist as supervisor. ASHA guidelines and most state laws limit the number of speech-language pathology assistants a speech-language pathologist may supervise and define boundaries for how assistants are used.

### **5. Is there a need for speech-language pathology assistants?**

To serve a growing and more diverse client base and an expanding scope of practice, more service providers are needed. In an era of heightened demand for cost efficiency, some tasks may be more appropriate for support personnel than for professional-level providers. The use of assistants may allow ASHA-certified speech-language pathologists to focus more on professional-level clinical services (i.e., those that require ongoing clinical judgment) rather than on routine day-to-day operational activities. For further information on the U.S. Bureau of Labor Statistics national job outlook for the professions visit [www.bls.gov/oco/ocos085.htm#outlook](http://www.bls.gov/oco/ocos085.htm#outlook). For information on state occupational projections visit <http://almis.dws.state.ut.us/occ/projhome.asp>.

### **6. What is the demand for speech-language pathology assistants?**

ASHA does not have specific data on the demand for speech-language pathology assistants; however, 16.4% of ASHA certified speech-language pathologists reported that at least one speech-language pathology assistant was employed in their facilities (2003 ASHA Omnibus Survey). School-based speech-language pathologists reported a greater use of speech-language pathology assistants than did speech-language pathologists in health care facilities. In the school-based setting, 25.4% of ASHA-certified SLPs indicated that their facilities employed one or more SLPAs (2000 ASHA Schools Survey). The demand for speech-language pathology assistants is likely to grow as the population base for speech-language pathology services continues to increase.

### **7. What are the advantages to the speech-language pathologist in using speech-language pathology assistants in his/her practice?**

## Speech-Language Pathology Assistant FAQs

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The ASHA-certified SLP may extend services (i.e., increase the frequency and intensity of services to patients or clients on his/her caseload), focus more on professional-level tasks, increase client access to the program, and achieve more efficient/effective use of time and resources. According to the ASHA 2000 Schools Survey, 47.3% of respondents indicated that the use of SLPAs led to "more time for direct service," while 23.1% reported that the use of SLPAs led to "more time for planning/consultation with teachers."

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## B. Using Speech-Language Pathology Assistants

### 1. What may speech-language pathology assistants do?

According to ASHA's Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants, which apply across all practice settings, a speech-language pathology assistant may conduct the following tasks under the supervision of a speech-language pathologist:

- Conduct speech-language and hearing screenings (without interpretation) following specified screening protocols developed by the supervising speech-language pathologist
- Provide direct treatment assistance to patients/clients identified by the supervising speech-language pathologist
- Follow documented treatment plans or protocols developed by the supervising speech-language pathologist
- Document patient/client progress toward meeting established objectives as stated in the treatment plan, and report this information to the supervising speech-language pathologist
- Assist the speech-language pathologist during assessment of patients/clients, such as those who are difficult to test
- Assist with informal documentation (e.g., tallying notes for the speech-language pathologist to use), prepare materials, and assist with other clerical duties as directed by the speech-language pathologist
- Schedule activities, prepare charts, records, graphs, or otherwise display data
- Perform checks and maintenance of equipment
- Participate with the speech-language pathologist in research projects, in-service training, and public relations programs

State laws vary and may differ from ASHA guidelines. Check specific state regulations to determine the tasks permitted by assistants in a particular state. Some states do not permit the use of support personnel.

### 2. What is outside of speech-language pathology assistants' scope of responsibilities?

According to ASHA's Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants, a speech-language pathology assistant **may not** perform the following tasks.

- May not perform standardized or nonstandardized diagnostic tests, conduct formal or informal evaluations, or interpret test results

- May not participate in parent conferences, case conferences, or any interdisciplinary team meeting without the presence of the supervising speech-language pathologist or other ASHA-certified speech-language pathologist designated by the supervising speech-language pathologist
- May not provide patient/client or family counseling
- May not write, develop, or modify a patient/client's individualized treatment plan in any way
- May not assist with patients/clients without following the individualized treatment plan prepared by the speech-language pathologist or without access to supervision
- May not sign any formal documents (e.g., treatment plans, reimbursement forms, or reports; the assistant should sign or initial informal treatment notes for review and co-signature by the supervising professional)
- May not select patients/clients for service
- May not discharge a patient/client from services
- May not disclose clinical or confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist
- May not make referrals for additional services
- May not communicate with the patient/client, family, or others regarding the patient/client status or service without the specific consent of the supervising speech-language pathologist
- May not represent himself or herself as a speech-language pathologist

State laws vary and may differ from ASHA guidelines. Check specific state regulations to determine which tasks are outside the scope of responsibilities for assistants in a particular state.

### **3. What is the average salary for speech-language pathology assistants?**

At this time, ASHA collects salary data only on ASHA-certified speech-language pathologists and audiologists. Occupational and physical therapy data show that assistants in those fields make about 60% to 75% of professional-level salaries.

### **4. How will this program affect the culturally and linguistically diverse professional population?**

ASHA places great emphasis on attracting individuals from culturally and linguistically diverse backgrounds into the speech-language pathology/audiology professions. In related professions that use assistants, the proportions of minorities to non-minorities in both the assistant and the professional levels are similar.

### **5. Who is responsible for services provided by a speech-language pathology assistant?**

The fully qualified, ASHA-certified supervising speech-language pathologist is responsible for the services provided by assistants. In states that regulate speech-language pathology assistants, speech-language pathologists who hold full, unrestricted licenses assume these responsibilities for persons working under their direction.

### **6. Will caseloads expand when assistants are used?**

As has always been the case, caseload size of ASHA-certified speech-language pathologists may or may not increase depending on client needs and the nature of the services provided.

If speech-language pathology assistants are used appropriately, and if they are adequately supervised, ASHA certified speech-language pathologists' caseloads may decrease to permit sufficient time to supervise staff working under their direction. Speech-language pathology assistants do not carry their own caseloads. Assistants help to provide services as directed for the caseloads of speech-language pathologists.

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## C. Supervising Speech-Language Pathology Assistants

### 1. Who can supervise speech-language pathology assistants?

ASHA's 1995 guidelines define a supervisor as a speech-language pathologist certified by ASHA and licensed by the state (where applicable) who has been practicing for at least 2 years following ASHA certification and has completed at least one pre-service course or continuing education unit in supervision.

### 2. Is the speech-language pathologist supervising an SLPA required to have a course in supervision?

Yes, according to ASHA's 1995 guidelines (see above).

### 3. What resources on supervision does ASHA have available?

Refer to the [Knowledge and Skills for Supervisors of Speech-Language Pathology Assistants](#) (also available through the ASHA Action Center at 1-800-498-2071. Additional resource items are available online at [www.asha.org/shop/buy\\_online](http://www.asha.org/shop/buy_online) (or by calling 888-498-6699), including "Practical Tools and Forms for Supervising Speech-Language Pathology Assistants" and "Working with SLP Assistants in School Settings." Finally, professional development opportunities in supervision are periodically offered as education programs through ASHA teleseminars and conferences listed at [www.asha.org/Continuing-Ed](http://www.asha.org/Continuing-Ed).

### 4. If an ASHA-certified speech-language pathologist with less than two years experience joins a program with an experienced speech-language pathology assistant, should the assistant be terminated to meet ASHA's 1995 guidelines?

No. However, there should be documentation of the attempt to hire a qualified speech-language pathologist as supervisor (i.e., with more than two years experience post-ASHA certification). In addition, an alternate plan of supervision should be developed.

### 5. How much supervision is recommended?

The amount and type of supervision required should be based on the skills and experience of the speech-language pathology assistant, the needs of patients/clients served, the service setting, the tasks assigned, and other factors. ASHA's [Code of Ethics](#) requires certificate holders to provide "appropriate supervision." In ASHA's 1995 speech-language pathology assistant guidelines, the minimum amount of supervision suggested is 30% weekly (at least 20% direct) for the first 90 workdays and 20% (at least 10% direct) after the initial work period. Direct supervision means on-site, in-view observation and guidance by a speech-language pathologist while an assigned activity is performed by support personnel. The

guidelines also recommend that a speech-language pathologist supervise no more than three speech-language pathology assistants. State laws vary and may differ from ASHA guidelines. Check specific state regulations to determine amount of supervision required and qualifications for supervisors' of assistants in a particular state.

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#### **D. Credentialing Speech-Language Pathology Assistants**

##### **1. Does ASHA credential speech-language pathology assistants?**

Not at this time. ASHA had started a voluntary registration program for speech-language pathology assistants (SLPAs) in 2003, of which one criterion for such registration required an associate degree in SLPA from a technical training program for speech-language pathology assistants. At its Spring 2003 meeting, ASHA's Legislative Council passed a resolution to discontinue the registration program for speech-language pathology assistants and the approval process for SLPA technical training programs as of December 31, 2003, due to financial reasons.

ASHA no longer has a recognition process for associate degree technical training programs for SLPAs nor a registration process for SLPAs. ASHA will continue to disseminate the [Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants](#), which have been revised and are available for peer review through March 5, 2004. The revised Guidelines include recommended curriculum for training programs and a checklist for supervisors of SLPAs that can assist in the verification of technical proficiency of the assistant.

##### **2. How does one become a speech-language pathology assistant?**

ASHA's recommends completion of an associate's degree from a technical training program with a program of study designed to prepare the student to be a speech-language pathology assistant. Because the requirements for speech-language pathology support personnel vary across the country, persons interested in serving as speech-language pathology assistants should check with the state of intended employment for that state's specific requirements. State agencies (licensure boards) currently regulating support personnel have training requirements that range from a high school diploma to a baccalaureate degree + graduate credit hours, as well as a variety of differing requirements for those supervising these individuals. In addition to state regulatory agencies, state education agencies may credential support personnel to work solely in schools to support service delivery provided by a qualified speech-language pathologist. ASHA's [Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants](#) are national in scope and can serve to promote greater uniformity in the terms used to identify speech-language pathology support personnel, training and educational requirements, and job responsibilities.

##### **3. Is continuing education required for a speech-language pathology assistant?**

Currently, ASHA does not have a continuing education requirement for speech-language pathology assistants. State laws may vary from ASHA's requirements, so check with the state of intended employment, as several states do require annual continuing education for assistants.

#### **4. Is the use of speech-language pathology assistants permitted in every state?**

No. Some states that regulate speech-language pathology do not permit the use of speech-language pathology support personnel. As of July 2003, statutes in 37 states recognize support personnel, but not all of these states actually regulate support personnel. In addition, state departments of education may credential speech-language pathology support personnel. Some school districts hire assistants under the classification of teacher assistants. If a state regulates speech-language pathology support personnel (i.e., under the term of assistant, aide, paraprofessional, apprentice, etc.), then individuals who wish to become employed in that state must meet the state requirements for practice under a licensed and ASHA-certified speech-language pathologist. Call the state licensure board or department of education for specific state regulations. Addresses and phone numbers can be obtained at [www.asha.org/about/legislation-advocacy/state/associations](http://www.asha.org/about/legislation-advocacy/state/associations).

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### **E. Training Speech-Language Pathology Assistants**

#### **1. Is this a career ladder?**

It could be, but it is not specifically intended as such because the associated coursework and fieldwork experiences required in the speech-language pathology assistant program typically differ from those at the bachelor's, pre-professional, or master's professional levels. Anyone interested in pursuing academic coursework and fieldwork as an assistant prior to entering the field of speech-language pathology, may want to check with bachelor's degree programs and master's degree programs in speech-language pathology to determine if any courses taken in the associate degree SLPA program will be credited for future studies.

#### **2. What information is available to help a training institution start a speech-language pathology assistant training program?**

The revised *Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants*, currently under peer review include curriculum content for training of SLPAs. (See Section G below for more information.)

#### **3. Can an institution establish a speech-language pathology assistant training program in a state that prohibits the use of speech-language pathology assistants?**

Such decisions are under the purview of state agencies that have degree-granting authority and that regulate the professions. Consult with the appropriate state entity that performs such oversight to determine if starting such a program is permissible under postsecondary requirements in place and whether the program would be at variance with state law and regulations for the profession.

#### **4. How can I find qualified speech-language pathology assistants?**

Call states that regulate them. Addresses and phone numbers of state licensure boards and regulatory agencies can be obtained from ASHA's Web site at <http://www.asha.org/about/legislation-advocacy/state/associations>. Another option is to call

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associate degree programs and institutions that train and graduate speech-language pathology assistants. For a list of self-identified training programs for SLPAs, contact [actioncenter@asha.org](mailto:actioncenter@asha.org).

**5. How many training programs are there for speech-language pathology assistants?**

As of September 2003, ASHA is aware of 27 operational associate degree programs for speech-language pathology assistants and 73 institutions that are considering and/or developing programs. Some of these programs are exploring training opportunities through distance learning and collaborations between community colleges and institutions of higher education. For a self-identified list of SLPA training programs, contact [actioncenter@asha.org](mailto:actioncenter@asha.org).

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**F. Reimbursing Speech-Language Pathology Assistant Services****1. Who makes the determination of what constitutes a "skilled" versus a "non-skilled" activity, in terms of rate of reimbursement for speech-language pathology (SLP) and speech-language pathology assistant (SLPA) services?**

Medicare (as well as private insurers) does not provide a different rate of reimbursement for services provided by a speech-language pathologist as opposed to an SLPA. Services provided by a speech-language pathologist and an SLPA are considered skilled services, as the SLPA is implementing the treatment devised by the speech-language pathologist. Medicare and most private insurers do not cover non-skilled speech-language services. There are some clear definitions of what type of activity constitutes a skilled service in the ASHA compilation that includes "[Medicare Medical Review Guidelines for SLPs](#)." Excerpts are reproduced below, although one should refer to the entire document for guidance.

"The services must be of such a level of complexity and sophistication, or the patient's condition must be such that the services required can be safely and effectively performed only by or under the supervision of a qualified speech pathologist. (*Medicare Intermediary Manual*, section 3101.10A.2)

Non-skilled activities include:

Non-diagnostic, non-therapeutic, routine, and repetitive and reinforced procedures . . . which may effectively be carried out with the patient by any nonprofessional (e.g., family member, restorative nursing aide) after instruction and training is completed. (*Medicare Program Integrity Manual*, section 6.6.5.B.)

**2. Since there is no clear definition of supervision in Medicare regulations, how should facilities approach the intermediary for a ruling?**

If there are any questions regarding supervision, ASHA's 1995 Guidelines for the Training, Credentialing, Use, and Supervision of Speech-Language Pathology Assistants will address them. If the services provided by the SLPA under the supervision of the speech-language pathologist constitute skilled care and the facility follows ASHA supervision guidelines, then that should be an adequate basis for Medicare coverage.

Some intermediaries (i.e., claims processing organizations) are not certain of their role in determining the adequacy of supervision. The following excerpt from the *Medicare Intermediary Manual* (section 3101.10A.2) can be cited:

(When you [the claims reviewer] determine the services furnished were of a type that could have been safely and effectively performed only by qualified speech pathologists or under the supervision of a qualified speech pathologist, presume that such services were properly supervised. However, this assumption is rebuttable and, if in the course of processing claims you find that speech pathology services are not being furnished under proper supervision, deny the claim and bring this matter to the attention of the Division of Health Standards and Quality of the RO [CMS Regional Office]). . .

If your Medicare intermediary insists that SLPAs are not covered, request from ASHA a 1996 letter from HCFA (now the Centers for Medicare and Medicaid Services [CMS]) regarding coverage of speech-language pathology support personnel. It states that "it is the intermediary's responsibility to determine whether the type or degree of supervision...is adequate for coverage of speech-language pathology services." The letter can be obtained from Mark Kander at [Mkander@asha.org](mailto:Mkander@asha.org).

### **3. What is being done to ensure Medicare coverage of services rendered by a credentialed SLPA?**

Facilities that use SLPAs are encouraged to contact their intermediaries to confirm that services furnished by an SLPA are covered skilled services and appropriately supervised; hence they should be reimbursed. The ASHA Governmental Relations and Public Policy Board and the Health Care Economics Committee are currently studying the ramifications of revised regulations that would recognize SLPAs who meet ASHA criteria.

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## **G. Fieldwork for Speech-Language Pathology Assistant Student Trainees**

### **INTRODUCTION**

The questions and answers below are provided to assist associate degree technical training programs for speech-language pathology assistants (SLPAs) in establishing fieldwork arrangements that provide SLPA students with the technical skills necessary for supervisors to verify their technical proficiency. This information is consistent with the criteria established by ASHA in 2001 (effective through December 31, 2003) for the approval of SLPA training programs, as included in the Criteria and Implementation for the Approval of Associate Degree Technical Training Programs for Speech-Language Pathology Assistants. This section is applicable to SLPA student trainees, not necessarily assistants in the employment setting.

#### **1. Must the fieldwork hours completed by SLPA students be performed at specific types of settings or distributed across specific age groups or disorders?**

ASHA does not specify types of settings for fieldwork or distribution of hours, as long as the fieldwork provides SLPA students with a variety of experiences with individuals with communication disorders. The intent is to allow training programs flexibility in arranging their fieldwork, and to ensure that SLPA students have experience with both children and adults in more than one setting; however, ASHA policies do not mandate a specific distribution.