

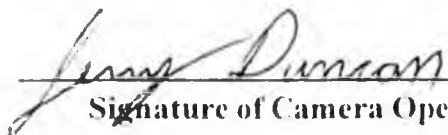
CONFERENCE / CONFERENCE

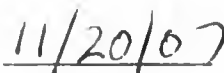


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Signature of Camera Operator


Date

LIST

OF

FILES

2005-2006

CONFERENCE COMMITTEES/FREE CONFERENCE COMMITTEES

LIST OF FILES (PAGE 1)

MICROFICHE #

HB 94 CONFERENCE COMMITTEE

HB 147 CONFERENCE COMMITTEE

SB 125 CONFERENCE COMMITTEE

CONF.

COMM.

HB

94

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: _____
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: "An Act relating to qualifications of voters, requirements and procedures regarding independent..." RDU: Elections
 Component: Elections
 Sponsor: Rules Committee
 Requester: Governor Component No: 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation will have no fiscal impact on the Division of Elections

Prepared by: Lauri Allred, Administrative Assistant Supervisor Phone: 465-5347
 Division: Division of Elections Date/Time: 1/18/05 11:46 AM
 Approved by: Laura A. Glaiser, Director Date: 1/18/2005
 Agency: Division of Elections

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 94(JUD)
 (H) Publish Date: 4/13/05

Revision Date/Time (Note if correction): _____ Dept. Affected: GOV
 Title: "An Act relating to qualifications of voters, requirements and procedures regarding..." RDU: Elections
 Component: Elections
 Sponsor: House Rules Committee
 Requester: House State Affairs Committee Component No: 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual		16.8		16.8		16.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	16.8	0.0	16.8	0.0	16.8

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		16.8		16.8		16.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	16.8	0.0	16.8	0.0	16.8

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Current law requires the Division to send written verification to voters in the affected precinct when a polling place change occurs. If passed as amended, this legislation would require the Division to provide notice of change by publication in a local newspaper of general circulation, in addition to the written notice currently mailed. The cost of the additional notice in a newspaper is estimated at 19.0 for publishing polling place locations prior to a primary and general election.

 Current law requires the Division to provide notice of a precinct boundary change by publication on three different days in a local newspaper. If passed as amended, this legislation would reduce the number of days a precinct boundary change is published in a local newspaper from three days to one day. Reducing the notice to one publication is estimated to save the Division 2.2. A total of 16.8 will need to be added to the Division's Primary and General budget in future years.

Prepared by: Lauri Allred, Administrative Assistant Supervisor Phone: 465-5347
 Division: Division of Elections Date/Time: 3/17/05 5:26 PM
 Approved by: Laura A. Glaiser, Director Date: 3/17/2005
 Agency: Office of the Lt. Governor, Division of Elections

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 94(FIN)
 (H) Publish Date: 4/21/05

Revision Date/Time (Note if correction): _____ Dept. Affected: GOV
 Title: "An Act relating to qualification of voters, requirements and procedures regarding ..." RDU: Elections
 Component: Elections
 Sponsor: House Rules Committee
 Requester: House Judiciary Component No.: 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual		24.8		24.8		24.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	24.8	0.0	24.8	0.0	24.8

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		24.8		24.8		24.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	24.8	0.0	24.8	0.0	24.8

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Current law requires the Division to send written verification to voters in the affected precinct when a polling place change occurs. If passed as amended, this legislation would require the Division to provide notice of change by publication in a local newspaper of general circulation, in addition to the written notice currently mailed. The cost of the additional notice in a newspaper is estimated at 19.0 for publishing polling place locations prior to a primary and general election.

 Current law requires the Division to provide notice of a precinct boundary change by publication on three different days in a local newspaper. If passed as amended, this legislation would reduce the number of days a precinct boundary change is published in a local newspaper from three days to one day. Reducing the notice to one publication is estimated to save the Division 2.2. A total of 16.8 will need to be added to the Division's Primary and General budget in future years.

Prepared by: Lauri Allred, Admin. Assistant Supervisor Phone: 465-4611
 Division: Division of Elections Date/Time: 4/13/05 1:15 PM
 Approved by: Laura A. Glaiser, Director Date: 4/13/2005
 Agency: Office of the Lt. Governor, Division of Elections

FISCAL NOTE #3

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. CSHB 94(FIN)

ANALYSIS CONTINUATION

This proposed amendment requires the Division to perform a hand count verification of ballots from a randomly selected precinct in each election district that accounts for at least five percent of the ballots cast in that district. The Division estimates an increased cost in personal services for hiring additional State Review Board workers to conduct the recount. The estimated cost of 3.5 for implementing this change would need to be added as an increment to our Primary and General Election budget in future years.

This proposed amendment requires the Division to include a notice on our absentee envelope that false statements made by the voter, attesting official or witness on the certificate, are punishable by law. The Division estimates a cost of 4.5 for replacing existing stock of envelopes for the inclusion of this statement.

SCS SCHB94(STA) ELECTIONS

- **Page 7, line 20** removed "oath", inserted "attestation" in accordance with the National Voter Registration Act (we cannot require an oath on a voter registration application)

- **Page 13, line 20** removed January 1, inserted June 1
Allow more time to designate early voting locations (best sites, while ensuring there will be sufficient ballots ordered, election workers trained, and supplies available to have an effective voting site)

- **Page 18, line 15** removed the last sentence

Removed language added on the floor of the other body that is inconsistent with current state law. The other body added language that

If an unaffiliated voter failed to mark a primary ballot choice on their absentee ballot application, the Division would send a ballot with the "greatest range of candidates from the most parties."

Current law does not allow for an "open ballot." The ballot scenario in 2004 was not consistent with current law – it was as a result of a court order.

- **Removed old section 57** --- would have changed the definition of Party from the 3% to 2% of vote (**see attached**)

Deleted a section that redefined recognized political status. As a result, current law, which passed the Legislature after a great deal of work (and a conference committee) will stand.

(continued on next page)

SCS SCHB94(STA) ELECTIONS

PARTY BUILDING

- **Pages 9, 10, 11 - New sections 11, 12, 13**
Defines party building
 - 527s using unlimited funds from unlimited sources to impact campaigns and elections
 - Definition allows parties to continue efforts but does so in a way that maintains the protections against otherwise prohibited entities and funding sources from influencing elections.
 - Party building activities are NOT express or electioneering communications --- Parties cannot use these funds to put ads up on television, radio, or in print to sway voters.
 - Party building does allow those things that makes parties stronger - registration, organization, and otherwise exist and operate prior to elections.
 - Allowing parties to use soft money to register voters and organize precincts, districts, and regions during non-campaign periods between elections, it results in better voter turnout.
 - The Bipartisan Campaign Reform Act prohibits State parties from using these funds at all during the 120 days before our general election in November.
 - In addition during the 600 days prior to that, every expenditure by the state parties has to be financed by a certain percentage of federal dollars (hard money).
- **Between the negative definition of party-building and the federal law (BCRA) soft money will not be allowed to influence the nomination or election of candidates.**
- **Alaska Supreme Court upheld APOC's authority to require disclosure of soft money in *Libertarian Party of Alaska, Inc. v. State*, 101 P3d 616.**
- **Goal is to increase grass roots efforts that increase voter turnout like we saw in 2004. Eminently preferable to allowing 527s to focus on their narrow, special-interest aims at the electorate - they are not accountable and suffer no consequences when things get ugly.**

CONF.

COMM.

HB

147

ALASKA STATE LEGISLATURE

House of Representatives

Committee Assignments:

Rules Committee, Chairman
Labor & Commerce Committee, Member
Legislative Council, Member
Special Committees:

Oil & Gas
Ways & Means



Interim:

716 West 4th Avenue, Suite 600
Anchorage, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

SESSION (Jan-May):

State Capitol
PHONE: (907) 465-4968
FAX: (907) 465-2040

REPRESENTATIVE NORMAN ROKEBERG

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

FAX COVER SHEET

DATE: _____ 5/13/05

TO: _____ Don Bullock

FAX: _____ 2029 VOICE: _____

RE: _____ CC HB 147 24-64 108.3 I

MESSAGE: ^{feh} am #1 p. 7, line ~~25~~ 26 after "foreign

insurer" insert "other than a self-funded

multiple employer welfare arrangement regulated

under 922185" so it would remain

SCS CS HB 147 (Fin) p 7. line 26-28

Thanks

TOTAL NUMBER OF PAGES SENT, INCLUDING COVER SHEET: _____ 1

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24-GH1083V
Bullock
5/14/05

CS FOR HOUSE BILL NO. 147()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SPECIAL SESSION

BY

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to notice of suspension or revocation of an insurer's certificate of
2 authority and the effect of the suspension or revocation upon the authority of agents and
3 managing general agents of the insurer; relating to certain deposits under AS 21;
4 relating to the yielding of assets and securities held on deposit; relating to third-party
5 administrators under AS 21; relating to insurance agents, managing general agents,
6 reinsurance intermediary managers, and insurance producers; requiring the director of
7 insurance to notify a licensee of a license renewal before the renewal date; defining the
8 term 'appointment' as used in part of AS 21; relating to the eligibility to provide
9 coverage by a nonadmitted insurer and alien insurer; relating to surplus lines insurance
10 and brokers; relating to misrepresentations and false advertising concerning insurance;
11 relating to health discount plans; providing for limitations on owner controlled and
12 contractor controlled insurance programs and limiting the coverage of those programs;

1 prohibiting excessive, inadequate, or unfairly discriminatory rate charges for health
2 insurance; defining the term 'plan administrator' as used in part of AS 21; defining the
3 term 'transact' as used in AS 21; authorizing the director of insurance to designate a
4 person to receive annual reports from companies; reducing the period for filing a
5 quarterly financial statement; and providing for an effective date."

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

7 * **Section 1.** AS 21.05.130(a) is amended to read:

8 (a) To determine compliance with this title, the director may, as often as the
9 director has reasonable cause, [CONSIDERS ADVISABLE] examine or require a
10 written report from a person of the accounts, records, documents, and transactions
11 pertaining to or affecting the insurance affairs or proposed insurance affairs of

12 (1) an insurance producer or independent adjuster; or

13 (2) a person engaged in or proposing to be engaged in or assisting in
14 the promotion or formation of a domestic insurer or insurance holding corporation, or
15 corporation to finance a domestic insurer or the production of its business.

16 * **Sec. 2.** AS 21.09.160 is amended to read:

17 **Sec. 21.09.160. Notice of suspension or revocation and effect upon agent's**
18 **authority.** (a) Upon suspending or revoking an insurer's certificate of authority the
19 director shall immediately give notice to the insurer and [TO ITS AGENTS OF
20 RECORD IN THIS STATE IN THE DIRECTOR'S OFFICE. THE DIRECTOR] shall
21 also publish notice of the revocation in one or more newspapers of general circulation
22 in this state.

23 (b) The suspension or revocation shall automatically suspend or revoke, as the
24 case may be, the authority of all its agents and managing general agents to act as
25 agents or managing general agents of the insurer in this state, and the insurer
26 [DIRECTOR] shall so state in the notice to agents and managing general agents
27 provided for in (c) [(a)] of this section.

28 * **Sec. 3.** AS 21.09.160 is amended by adding a new subsection to read:

29 (c) Upon notification of suspension or revocation of an insurer's certificate of

1 authority, the insurer shall immediately give notice of the suspension or revocation to
2 its agents and managing general agents operating in this state.

3 * Sec. 4. AS 21.24.040(a) is amended to read:

4 (a) Deposits made in this state under this title shall be made through the office
5 of the director [IN SAFE DEPOSIT OR] under custodial arrangements as required or
6 approved by the director consistent with the purposes of the deposit, with an
7 established safe deposit institution, bank, or trust company located in this state
8 selected by the insurer with the director's approval.

9 * Sec. 5. AS 21.24.040(c) is amended to read:

10 (c) If of convenience to the insurer in the buying, selling, and exchange of
11 securities making up [COMPRISING] its deposit, and in the collection of interest and
12 other income currently accruing on the securities [THEREON], the insurer may, with
13 the director's advance written approval, deposit a portion of the securities under
14 custodial arrangements with an established bank or trust company located outside this
15 state, if receipts representing all the securities are issued by the custodial bank or trust
16 company and are held in [SAFE DEPOSIT OR] custody subject to the requirements of
17 (a) [AND (b)] of this section.

18 * Sec. 6. AS 21.24.130(d) is amended to read:

19 (d) If the insurer is subject to delinquency proceedings as defined in AS 21.78,
20 upon the order of a court of competent jurisdiction, the director shall yield the assets
21 and securities held on deposit under AS 21.09.090(b) to the receiver, conservator,
22 rehabilitator, or liquidator of the insurer, or to any other properly designated official or
23 officials who succeed to the management and control of the insurer's assets. The
24 director may release the deposit directly to the guaranty fund of which the
25 insurer is a member if the right to receive all or a portion of the deposit is
26 assigned to the guaranty fund.

27 * Sec. 7. AS 21.27.010(c) is amended to read:

28 (c) A third-party administrator [PERSON WHO FOR A RESIDENT OF
29 THIS STATE, OR FOR A RESIDENT OF ANOTHER JURISDICTION FROM A
30 PLACE OF BUSINESS IN THIS STATE, PERFORMS ADMINISTRATIVE
31 FUNCTIONS, INCLUDING CLAIMS ADMINISTRATION AND PAYMENT,

1 MARKETING ADMINISTRATIVE FUNCTIONS, PREMIUM ACCOUNTING,
2 PREMIUM BILLING, COVERAGE VERIFICATION, UNDERWRITING
3 AUTHORITY, OR CERTIFICATE ISSUANCE ONLY IN REGARD TO LIFE
4 INSURANCE, HEALTH INSURANCE, OR ANNUITIES] is not required to be
5 licensed as a managing general agent if the third-party administrator [PERSON]

6 (1) is registered under AS 21.27.630 - 21.27.660 [THIS CHAPTER
7 AS A THIRD-PARTY ADMINISTRATOR]; or

8 (2) only investigates and adjusts claims and is licensed under this
9 chapter as an independent adjuster.

10 * Sec. 8. AS 21.27.100 is repealed and reenacted to read:

11 **Sec. 21.27.100. Appointment of insurance producer, managing general**
12 **agent, and reinsurance intermediary manager; acts of agent.** (a) An appointment
13 is required to be made in accordance with this section when one or more of the
14 following has occurred:

15 (1) an admitted insurer appoints a managing general agent in this state
16 or relative to a subject resident, located, or to be performed in this state;

17 (2) a managing general agent appoints an insurance producer as its
18 subagent in this state or relative to subjects resident, located, or to be performed in this
19 state;

20 (3) a domestic reinsurer appoints a reinsurance intermediary manager;

21 (4) a reinsurance intermediary manager appoints an insurance producer
22 as its subagent in this state.

23 (b) An admitted insurer shall appoint an insurance producer as its agent in this
24 state or relative to a subject resident, located, or to be performed in this state not later
25 than 30 days after the date that a written agency contract is executed or the first
26 insurance application is submitted to the admitted insurer by the licensed insurance
27 producer.

28 (c) An individual in a firm who acts solely on behalf of a firm that is
29 appointed as an agent or a managing general agent on behalf of an admitted insurer
30 under this section may not be required to also have an appointment under this section
31 if the individual in the firm is licensed with that firm for a specific class of authority.

1 (d) The authorized or apparently authorized acts on behalf of an appointing
2 insurer of an insurance producer appointed under this section are considered the acts
3 of that insurer.

4 (e) An insurer and managing general agent shall maintain a current list of all
5 appointments made or required to be made under this section that identifies the
6 licensee's name, licensee's mailing address, license number, and effective date of
7 appointment.

8 (f) An insurance producer shall maintain a list of all appointments made or
9 required to be made under this section that identifies the insurer's name, insurer's
10 mailing address, and effective date of appointment.

11 (g) An insurer, managing general agent, or insurance producer shall reply in
12 writing within three working days to an inquiry of the director regarding an
13 appointment.

14 * **Sec. 9.** AS 21.27.110 is repealed and reenacted to read:

15 **Sec. 21.27.110. Term of appointment.** (a) An appointment under
16 AS 21.27.100 continues in force until the appointment is terminated in writing.

17 (b) If an insurer, reinsurer, or authorized representative discovers information
18 showing that the appointee whose appointment was terminated has engaged in an
19 activity identified in AS 21.27.410 during the period of the appointment, the insurer,
20 reinsurer, or authorized representative shall, on a form or in a format prescribed by the
21 director, promptly notify the director.

22 (c) Within 15 days after providing notification in accordance with (b) of this
23 section, the insurer, reinsurer, or authorized representative shall mail a copy of the
24 notification to the appointee at the last address on record with the insurer, reinsurer, or
25 authorized representative. The notice must be provided by certified mail, return
26 receipt requested, postage prepaid, or by overnight delivery using a nationally
27 recognized mail carrier.

28 (d) Within 30 days after the appointee receives notification in accordance with
29 (c) of this section, the appointee may file written comments concerning the substance
30 of the notification with the director and shall provide a copy of the written comments
31 to the insurer, reinsurer, or authorized representative. The written comments filed

1 with the director must be included with each report distributed or disclosed concerning
2 a reason about the termination of the appointment.

3 (e) If requested by the director, an insurer, a reinsurer, or an authorized
4 representative shall provide to the director additional information, documents, records,
5 or other data pertaining to a termination or activity of a licensee under this title.

6 (f) A notice of termination submitted to the director under this section must
7 include a statement of the reasons for the termination. A statement of the reasons for
8 termination is confidential and not subject to inspection and copying under
9 AS 40.25.110. A statement of reasons for the termination may not be admitted as
10 evidence in a civil action or an administrative proceeding against an insurer, reinsurer,
11 or authorized representative by or on behalf of a person affected by the termination,
12 except when the action or proceeding involves perjury, unsworn falsification, fraud, or
13 failure to comply with this subsection.

14 (g) If an insurer, a reinsurer, or an authorized representative fails to report as
15 required under this section or is found by a court to have knowingly or intentionally
16 falsely made that report, the director may, after notice and hearing, suspend or revoke
17 the license or certificate of authority of the insurer, reinsurer, or authorized
18 representative and may impose a penalty in accordance with AS 21.27.440.

19 * Sec. 10. AS 21.27.380(a) is amended to read:

20 (a) Except as provided in this title, the director may renew a license biennially
21 on a date set by the director if the licensee continues to be qualified under this chapter
22 and, on or before the close of business of the renewal date, meets all renewal
23 requirements established by regulation and pays the renewal license fees set under
24 AS 21.06.250 for each license to the director. A licensee is responsible for knowing
25 the date that a license lapses and for renewing a license before expiration. The
26 director shall notify the licensee of the license renewal [MAIL A RENEWAL
27 NOTICE TO THE LICENSEE'S CURRENT ADDRESS ON FILE WITH THE
28 DIRECTOR] 30 days before the renewal date.

29 * Sec. 11. AS 21.27.630(b) is amended to read:

30 (b) A third-party administrator may not transact business for a kind or class of
31 authority [INSURANCE] for which the person is not registered.

1 * Sec. 12. AS 21.27.630(c) is amended to read:

2 (c) Except as otherwise provided in this chapter, a third-party
3 administrator [A PERSON WHO PERFORMS ADMINISTRATIVE FUNCTIONS,
4 INCLUDING CLAIMS ADMINISTRATION AND PAYMENT, MARKETING
5 ADMINISTRATIVE FUNCTIONS, PREMIUM ACCOUNTING, PREMIUM
6 BILLING, COVERAGE VERIFICATION, UNDERWRITING AUTHORITY, OR
7 CERTIFICATE ISSUANCE IN REGARD TO INSURANCE AS A THIRD-PARTY
8 ADMINISTRATOR] shall be registered under AS 21.27.630 - 21.27.660 [AS A
9 THIRD-PARTY ADMINISTRATOR] unless the third-party administrator
10 [PERSON] only investigates and adjusts claims and is licensed under this chapter as
11 an independent adjuster.

12 * Sec. 13. AS 21.27.630 is amended by adding new subsections to read:

13 (k) An insurer that holds a certificate of authority issued by the director and is
14 in good standing under this title is not required to be registered as a third-party
15 administrator in this state.

16 (l) A person that is not required to be registered as a third-party administrator
17 under (e) - (k) of this section must file a certification with the di. ctor that the person
18 meets the requirements for exemption.

19 * Sec. 14. AS 21.27.650(a) is amended to read:

20 (a) An insurer may not transact business with a third-party administrator
21 unless

22 (1) the insurer holds a certificate of authority in this state, if required
23 under this title;

24 (2) the third-party administrator is registered under this chapter or the
25 third-party administrator has filed a certification with the director certifying that
26 [. WHEN] the third-party administrator is operating only for a foreign insurer and [.]
27 is registered as a third-party administrator by the third-party administrator's resident
28 insurance regulator in a state that the director has determined has enacted provisions
29 substantially similar to those contained in AS 21.27.630 - 21.27.650 and that is
30 accredited by the National Association of Insurance Commissioners;

31 (3) the third-party administrator provides the director on January 1,

1 April 1, July 1, and October 1 of each year

2 (A) a list of current employees, identifying those transacting
3 business in this state or upon a subject resident, located or to be performed in
4 this state;

5 (B) a list of current insurers under contract; and

6 (C) other information the director may require;

7 (4) a written contract is in effect between the parties that establishes
8 the responsibilities of each party, indicates both parties' share of responsibility for a
9 particular function, and specifies the division of responsibilities;

10 (5) there is in effect a written contract between the insurer and third-
11 party administrator that contains the following provisions:

12 (A) the insurer may terminate the contract for cause upon
13 written notice sent by certified mail to the third-party administrator and may
14 suspend the underwriting authority of the third-party administrator during a
15 dispute regarding the cause for termination; but the insurer must fulfill all
16 lawful obligations with respect to policies affected by the written agreement,
17 regardless of any dispute between the insurer and the third-party administrator;

18 (B) the third-party administrator shall render accounts to the
19 insurer detailing all transactions and remit all money due under the contract to
20 the insurer at least monthly;

21 (C) all money collected for the account of an insurer shall be
22 held by the third-party administrator as a fiduciary;

23 (D) all payments on behalf of the insurer shall be held by the
24 third-party administrator as a fiduciary;

25 (E) the third-party administrator may not retain more than three
26 months estimated claims payments and allocated loss adjustment expenses;

27 (F) the third-party administrator shall maintain separate records
28 for each insurer in a form usable by the insurer; the insurer or its au thorized
29 representative shall have the right to audit and the right to copy all accounts
30 and records related to the insurer's business; the director, in addition to other
31 authority granted in this title, shall have access to all books, bank accounts, and

1 records of the third-party administrator in a form usable to the director; any
2 trade secrets contained in books and records reviewed by the director,
3 including the identity and addresses of policyholders and certificate holders,
4 shall be kept confidential, except that the director may use the information in a
5 proceeding instituted against the third-party administrator or the insurer;

6 (G) the contract may not be assigned in whole or in part by the
7 third-party administrator;

8 (H) if the contract permits the third-party administrator to do
9 underwriting, the contract must include the following:

10 (i) the third-party administrator's maximum annual
11 premium volume;

12 (ii) the rating system and basis of the rates to be
13 charged;

14 (iii) the types of risks that may be written;

15 (iv) maximum limits of liability;

16 (v) applicable exclusions;

17 (vi) territorial limitations;

18 (vii) policy cancellation provisions;

19 (viii) the maximum policy term; and

20 (ix) that the insurer shall have the right to cancel or not
21 renew a policy of insurance subject to applicable state law;

22 (I) if the contract permits the third-party administrator to
23 administer claims on behalf of the insurer, the contract must include the
24 following:

25 (i) written settlement authority must be provided by the
26 insurer and may be terminated for cause upon the insurer's written
27 notice sent by certified mail to the third-party administrator or upon the
28 termination of the contract, but the insurer may suspend the settlement
29 authority during a dispute regarding the cause of termination;

30 (ii) claims shall be reported to the insurer within 30
31 days;

1 (iii) a copy of the claim file shall be sent to the insurer
2 upon request or as soon as it becomes known that the claim has the
3 potential to exceed an amount determined by the director or exceeds the
4 limit set by the insurer, whichever is less, involves a coverage dispute,
5 may exceed the third-party administrator's claims settlement authority,
6 is open for more than six months, involves extra contractual
7 allegations, or is closed by payment in excess of an amount set by the
8 director or an amount set by the insurer, whichever is less;

9 (iv) each party to the contract shall comply with unfair
10 claims settlement statutes and regulations;

11 (v) transmission of electronic data must occur at least
12 monthly if electronic claim files are in existence; and

13 (vi) claim files shall be the sole property of the insurer;
14 upon an order of liquidation of the insurer, the third-party administrator
15 shall have reasonable access to and the right to copy the files on a
16 timely basis; and

17 (J) the contract may not provide for commissions, fees, or
18 charges contingent upon savings obtained in the adjustment, settlement, and
19 payment of losses covered by the insurer's obligations; but a third-party
20 administrator may receive performance-based compensation for providing
21 hospital or other auditing services or may receive compensation based on
22 premiums or charges collected or the number of claims paid or processed.

23 * Sec. 15. AS 21.27.650 is amended by adding a new subsection to read:

24 (q) The director may, without advance notice or hearing, immediately suspend
25 by order the registration of a third-party administrator if the director finds that one or
26 more of the following circumstances exist:

27 (1) the third-party administrator is insolvent or impaired;

28 (2) a proceeding for bankruptcy, receivership, conservatorship, or
29 rehabilitation, or another delinquency proceeding regarding the third-party
30 administrator has been commenced in any state or by a governmental agency of
31 another jurisdiction;

1 (3) the third-party administrator is in an unsound condition, or is in a
2 condition or using methods or practices that render its further transaction of insurance
3 injurious to policy holders or the public.

4 * Sec. 16. AS 21.27 is amended by adding a new section to article 4 to read:

5 **Sec. 21.27.660. Definitions.** In AS 21.27.630 - 21.27.660,

6 (1) "insurer" includes the Comprehensive Health Insurance
7 Association created under AS 21.55.010 and any person issued or required to obtain a
8 certificate of authority under this title to transact life insurance, annuities, and health
9 insurance or to provide coverage for the cost of medical care;

10 (2) "transact" has the meaning given in AS 21.90.900.

11 * Sec. 17. AS 21.27.900 is amended by adding a new paragraph to read:

12 (33) "appointment" means an act by a person evidencing a grant of
13 authority to another to act on the grantor's behalf.

14 * Sec. 18. AS 21.34.040(d) is amended to read:

15 (d) A nonadmitted insurer may be eligible to provide coverage in this state if it
16 furnishes to the director a copy of its current annual statement that has been certified
17 by the insurer. Except in the case of an alien insurer, the [THE] statement shall be
18 provided not [NO] more than six months after the close of the period reported upon
19 and that is either filed with and approved by the regulatory authority in the domicile of
20 the nonadmitted insurer, or certified by an accounting or auditing firm licensed in the
21 jurisdiction of the insurer's domicile. An alien insurer shall provide the statement
22 not later than nine months after the close of the reporting period. In the case of
23 an insurance exchange, the statement may be an aggregate combined statement of all
24 underwriting syndicates operating during the period reported upon.

25 * Sec. 19. AS 21.34.100(a) is amended to read:

26 (a) When surplus lines insurance is placed, the surplus lines broker shall
27 promptly deliver to the named insured or the producing broker the policy or, if the
28 policy is not then available, a [CERTIFICATE,] cover note, binder, or other evidence
29 of insurance. The [CERTIFICATE,] cover note, binder, or other evidence of
30 insurance for the named insured shall be executed by the surplus lines broker and must
31 contain a summary of all material facts that would regularly be included in the policy.

1 the description and location of the subject of insurance, a general description of the
2 coverages of the insurance, the premium and rate charged and taxes to be collected
3 from the insured, the name and address of the insured, the name of each surplus lines
4 insurer and the percentage of the entire risk assumed by each, the name of the surplus
5 lines broker, and the license number of the surplus lines broker.

6 * Sec. 20. AS 21.34.100(f) is amended to read:

7 (f) A producing broker or other licensee may issue to a person, other than
8 the named insured, a certificate [EVERY CERTIFICATE ISSUED BY THE
9 PRODUCING BROKER OR OTHER LICENSEE] as evidence of insurance
10 negotiated, placed, or procured under this chapter. The certificate must bear the
11 name of the surplus lines broker, which may not be covered, concealed, or obscured
12 by the producing broker, and the following legend in at least 10-point type: "This is
13 evidence of insurance procured and developed under the Alaska Surplus Lines Law,
14 AS 21.34. It is not covered by the Alaska Insurance Guaranty Association Act,
15 AS 21.80."

16 * Sec. 21. AS 21.36.030(a) is amended to read:

17 (a) A person may not make, issue, circulate, broadcast, or have made, issued,
18 circulated, or broadcast an estimate, circular, statement, illustration, comparison,
19 assertion, or other written, electronic, or oral presentation that

20 (1) misrepresents the benefits, advantages, conditions, sponsorship,
21 source, or terms of an insurance policy;

22 (2) misrepresents the dividends or share of the surplus to be received
23 on an insurance policy;

24 (3) misrepresents an insurance policy as being a share or shares of
25 stock;

26 (4) makes a false or misleading statement as to the dividends or shares
27 of the surplus previously paid on an insurance policy;

28 (5) misrepresents or makes a misleading statement as to the financial
29 condition of an insurer or as to the legal reserve system upon which a life insurer
30 operates;

31 (6) uses a name or title of an insurance policy or class of insurance

1 policies misrepresenting its true nature;

2 (7) is a misrepresentation for the purpose of inducing, or that tends to
3 induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy;

4 (8) is a misrepresentation for the purpose of effecting or tending to
5 effect a pledge or assignment of or loan against an insurance policy;

6 (9) appears to be an actual policy for a named individual when it is
7 merely an advertisement;

8 (10) does not clearly designate the name of the insurer providing the
9 coverage or about which the statements are made; or

10 (11) is in any other way misleading, false, or deceptive.

11 * Sec. 22. AS 21.36.030(a) is amended to read:

12 (a) A person may not make, issue, circulate, broadcast, or have made, issued,
13 circulated, or broadcast an estimate, circular, statement, illustration, comparison,
14 assertion, or other written, electronic, or oral presentation that

15 (1) misrepresents the benefits, advantages, conditions, sponsorship,
16 source, or terms of an insurance policy or a health discount plan;

17 (2) misrepresents the dividends or share of the surplus to be received
18 on an insurance policy;

19 (3) misrepresents an insurance policy as being a share or shares of
20 stock;

21 (4) makes a false or misleading statement as to the dividends or shares
22 of the surplus previously paid on an insurance policy;

23 (5) misrepresents or makes a misleading statement as to the financial
24 condition of an insurer or as to the legal reserve system upon which a life insurer
25 operates;

26 (6) uses a name or title of an insurance policy or class of insurance
27 policies misrepresenting its true nature;

28 (7) is a misrepresentation for the purpose of inducing, or that tends to
29 induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy;

30 (8) is a misrepresentation for the purpose of effecting or tending to
31 effect a pledge or assignment of or loan against an insurance policy;

1 (9) appears to be an actual policy for a named individual when it is
2 merely an advertisement;

3 (10) does not clearly designate the name of the insurer providing the
4 coverage or about which the statements are made; [OR]

5 (11) is in any other way misleading, false, or deceptive;

6 (12) misrepresents a health discount plan as a form or type of
7 insurance;

8 (13) describes a health discount plan using common insurance
9 terminology; or

10 (14) misrepresents that a health discount plan is underwritten by
11 or associated with an insurer.

12 * Sec. 23. AS 21.36 is amended by adding a new section to read:

13 **Sec. 21.36.065. Limitation on owner controlled and contractor controlled**
14 **insurance programs.** (a) An owner controlled insurance program or a contractor
15 controlled insurance program is subject to both AS 21.39 and AS 21.42, must be
16 approved by the director, and shall be allowed only for a major construction project.
17 Owner controlled and contractor controlled insurance programs are limited to property
18 insurance as defined in AS 21.12.060 and casualty insurance as defined in
19 AS 21.12.070.

20 (b) In this section, an owner controlled or contractor controlled insured
21 program does not include

22 (1) builder's risk or course of construction insurance;

23 (2) insurance relating to the transportation of cargo or other property;

24 (3) insurance covering one or more affiliates, subsidiaries, partners, or
25 joint venture partners of a person; or

26 (4) insurance policies endorsed to name one or more persons as
27 additional insureds.

28 (c) In this section,

29 (1) "contractor" means a person who meets the definition of
30 "contractor" in AS 08.18.171 and who undertakes the performance of a construction
31 project for a project owner, its agent, or its representative;

1 (2) "contractor controlled insurance program" means an insurance
2 program where one or more insurance policies are procured on behalf of a contractor,
3 its agent, or its representative, by its insurance producer, as defined in AS 21.27.900,
4 for the purpose of insuring the contractor and one or more of the following:

5 (A) the project owner;

6 (B) a subcontractor;

7 (C) an architect;

8 (D) an engineer; or

9 (E) a person performing professional services;

10 (3) "major construction project" means the process of constructing a
11 structure, building, facility, or roadway or major renovation of more than 50 percent of
12 an existing structure, building, facility, or roadway having a contract cost of more than
13 \$50,000,000 of a definite term at a geographically defined project site;

14 (4) "owner controlled insurance program" means an insurance program
15 where one or more insurance policies are procured on behalf of a project owner, its
16 agent, or its representative, by its insurance producer, as defined in AS 21.27.900, for
17 the purpose of insuring the project owner and one or more of the following:

18 (A) the contractor;

19 (B) a subcontractor;

20 (C) an architect;

21 (D) an engineer; or

22 (E) a person performing professional services;

23 (5) "project owner" means a person who, in the course of the person's
24 business, engages the service of a contractor for the purpose of working on a
25 construction project;

26 (6) "subcontractor" means a person to whom a contractor sublets all or
27 part of a contractor's initial undertaking.

28 * Sec. 24. AS 21.36 is amended by adding a new section to read:

29 **Sec. 21.36.155. Health discount plans.** (a) A person may not sell, market,
30 promote, advertise, or otherwise distribute a health discount plan unless

31 (1) each advertisement, policy, document, information, statement, or

1 other communication regarding the health discount plan and the plan itself contain a
statement, in bold and prominent type, that the health discount plan is not insurance;

3 (2) the discounts offered under the health discount plan are specifically
4 authorized by a contract with each provider of the services or supplies listed in
5 conjunction with the plan;

6 (3) the health discount plan states the name, address, and telephone
7 number of the administrator of the plan;

8 (4) the person makes readily available to the consumer a complete,
9 accurate, and up-to-date list of providers participating in the plan that offer discounted
10 health care services or supplies in the consumer's local area and the discounts offered
11 by the providers;

12 (5) the person provides the consumer the right to cancel the health
13 discount plan within 30 days after purchase of the plan; and

14 (6) the person provides the consumer with a full refund of all payments
15 made, except for a nominal processing fee, within 30 days after notification of
16 cancellation of the plan under (5) of this subsection.

17 (b) The director may adopt regulations to implement this section and to
18 establish additional requirements intended to prohibit unfair or deceptive practices
19 relating to health discount plans.

20 * **Sec. 25.** AS 21.36.190 is amended by adding a new subsection to read:

21 (f) Except as provided in AS 21.36.065, an insurer, whether authorized or
22 unauthorized, may not underwrite an owner controlled insurance program or
23 contractor controlled insurance program. In this subsection, "owner controlled
24 insurance program" and "contractor controlled insurance program" have the meanings
25 given in AS 21.36.065.

26 * **Sec. 26.** AS 21.36.195 is amended to read:

27 **Sec. 21.36.195. Surplus lines brokers and insurance producers; prohibited**
28 **acts.** A surplus lines broker or an insurance producer may not fail to provide evidence
29 of insurance, [AFFIDAVITS,] filings, or reports, or fail to maintain the records, or fail
30 to pay the taxes and fees, required under AS 21.34.

31 * **Sec. 27.** AS 21.51 is amended by adding a new section to read:

1 **Sec. 21.51.405. Rate requirements.** Rates charged for a health insurance
2 policy may not be excessive, inadequate, or unfairly discriminatory.

3 * **Sec. 28.** AS 21.55.500(16) is amended to read:

4 (16) "plan administrator" means an [THE] eligible entity that is
5 licensed as a third-party administrator under AS 21.27 and is selected by the
6 board and approved by the director to administer a state plan:

7 * **Sec. 29.** AS 21.66.080(a) is amended to read:

8 (a) Every company, on or before March 1 of each year, shall furnish the
9 director or the director's designee a sworn statement of assets and liabilities, and of
10 all title premiums received by it during the preceding calendar year, setting out, among
11 other things, the amounts that have been set aside and held by it in an account required
12 under AS 21.18.073. The reporting format for a given year is the most recently
13 approved National Association of Insurance Commissioners Annual Financial
14 Statement blank form and instructions, supplemented for additional information as
15 required by the director. The director may require the statement to be filed on
16 electronic media. The statement must also show all unpaid losses and claims upon
17 title insurance policies of which the title insurance company has received due notice in
18 writing from or on behalf of the insured. With the filing of the statement, the title
19 insurance company shall pay a filing fee set under AS 21.06.250.

20 * **Sec. 30.** AS 21.66.085(b) is amended to read:

21 (b) A quarterly financial statement, if required, is due 45 [60] days after the
22 end of the quarter to which it applies.

23 * **Sec. 31.** AS 21.90.900(42) is amended to read:

24 (42) "third-party administrator" means a person who, for residents of
25 this state, or for residents of another jurisdiction from a place of business in this state,
26 performs administrative functions including claims administration and payment,
27 marketing administrative functions, premium accounting, premium billing, coverage
28 verification, underwriting authority, or certificate issuance in connection with life
29 insurance, annuities, health insurance, or the provision of coverage for the cost of
30 medical care [REGARD TO LIFE INSURANCE, HEALTH INSURANCE, OR
31 ANNUITIES];

1 * Sec. 32. AS 21.90.900(43) is amended to read:

2 (43) "transact," with respect to insurance or the provision of coverage
3 for medical care, includes

4 (A) solicitation and inducement;

5 (B) preliminary negotiations;

6 (C) effectuation of a contract of insurance or the provision of
7 coverage for medical care;

8 (D) transaction of matters subsequent to effectuation of the
9 contract of insurance or the provision of coverage for medical care and
10 arising out of it;

11 * Sec. 33. AS 21.90.900 is amended by adding a new paragraph to read:

12 (45) "health discount plan" means a card, program, device,
13 arrangement, contract, or mechanism that purports to offer discounts or access to
14 discounts on health care services or supplies and that is not insurance or that does not
15 provide coverage for services or benefits regulated under AS 21.86 or AS 21.87.

16 * Sec. 34. AS 21.24.040(b); AS 21.27.330(b), and 21.27.650(p) are repealed.

17 * Sec. 35. The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 TRANSITION: REGULATIONS. The director of insurance may proceed to adopt
20 regulations to implement the changes made by secs. 22, 24, and 33 of this Act. The
21 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
22 effective date of secs. 22, 24, and 33 of this Act.

23 * Sec. 36. Sections 22, 24, and 33 of this Act take effect July 1, 2005.

24 * Sec. 37. Except as provided in sec. 36 of this Act, this Act takes effect immediately under
25 AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 147
 (H) Publish Date: 2/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Omnibus Insurance RDU Insurance (116)
 Component Insurance Operations
 Sponsor Rules
 Requester By Request of the Governor Component No. 354

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	35.0	36.0	37.0	38.0	40.0	41.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	1.0	0.0	0.0	0.0	0.0	0.0
Supplies	2.5	0.0	0.0	0.0	0.0	0.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	38.5	36.0	37.0	38.0	40.0	41.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	38.5	36.0	37.0	38.0	40.0	41.0
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	38.5	36.0	37.0	38.0	40.0	41.0

Estimate of any current year (FY2005) cost: 00
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

A Consumer Services Specialist will need to be added to respond to additional inquiries from the public on the union health trust fund provisions

Prepared by Linda S. Hall, Director Phone 907 269 7900
 Division Insurance Date/Time 2/14/05 9 48 AM
 Approved by Edgar Blatchford, Commissioner Date 2/14/2005
 Agency Commerce, Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 147(L&C)
(H) Publish Date: 4/1/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title: Omnibus Insurance RDU: Insurance (116)
Component: Insurance
Sponsor: Rules by request of the Governor
Requester: House Labor & Commerce Component No.: 354

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation does not have a fiscal impact on the operations of the division since there are no union health trust sections in the current version.

Prepared by: Linda S. Hall, Director Phone: 907 269 7900
Division: Insurance Date/Time: 3/29/05 5:58 PM
Approved by: Edgar Blatchford, Commissioner Date: 3/29/2005
Agency: Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: SCS CSHB 147(FIN)
 (S) Publish Date: 5/6/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Omnibus Insurance RDU Insurance (116)
 Component Insurance
 Sponsor Rules
 Requester Senate FINANCE Component No. 354

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	35.0	36.0	37.0	38.0	40.0	41.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	1.0	0.0	0.0	0.0	0.0	0.0
Supplies	2.5	0.0	0.0	0.0	0.0	0.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	38.5	36.0	37.0	38.0	40.0	41.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services	38.5	36.0	37.0	38.0	40.0	41.0
TOTAL	38.5	36.0	37.0	38.0	40.0	41.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

A Consumer Services Specialist will need to be added to respond to additional inquiries from the public on the union health trust fund provisions

Prepared by: Linda S. Hall, Director Phone 907-269-7900
 Division: insurance Date/Time 5/6/05 11:33 AM
 Approved by: Edgar Blatchford, Commissioner Date 5/6/2005
 Agency: Commerce, Community & Economic Development

Senate CS for CS for House 147 (Version Y)

The bill proposes changes that will make the regulation of insurance more efficient for the Division of Insurance, more uniform for industry and at the same time give greater protection for Alaska insurance consumers.

Changes in the Senate CS

1. Section 1 – Changes language regarding the director's examinations from "considers advisable" to "has reasonable cause"
2. Section 31 – Adds a streamlined version of filing requirements and minimum standards for union health trusts

Specific provisions are summarized in the attached document

Current statute (AS 21.03.021) states that any entity that provides coverage for the cost of medical care may be regulated by Division unless it shows it is regulated by another state agency or the Federal Government

3. Section 32 – Adds a definition of self-funded governmental plan

From: Division of Insurance

SENATE CS FOR CS FOR HOUSE 147 (VERSION Y)

STREAMLINED HEALTH TRUST PROVISIONS

A. FILING REQUIREMENTS

1. Audited Financial Statements
2. Actuarial Memorandum
 - a. Adequacy of reserves, contribution rates, stop loss policy
 - b. Financial condition of the plan
3. Name and contact info for plan administrator

B. MINIMUM REQUIREMENTS

1. Trust Agreement
2. Bond – Same as ERISA
3. Stop Loss Policy
4. Competent personnel & adequate facility for administrator
5. Provide plan description to participants

C. ADDITIONAL STANDARDS FROM CURRENT STATUTE

1. 21.03 – Scope of Code
2. 21.06 – Director authority for hearings & orders
3. 21.07 – Managed Care – Internal & External Review – Utilization – requires someone with professional credentials
4. 21.09 – Records required
5. 21.18 – Reserves
6. 21.36 – Trade practices
7. 21.42 – Mandates
8. 21.54 – Group Health such as HIPPA
9. 21.78 – Rehabilitation & Liquidation
10. 21.90 - Definitions

HB 147		
	Health Trust	Insurer
Certificate of Authority		Yes
Deposit		\$300,000
Capital & Surplus		Up to 5.2 Million
Risk Based Capital Analysis		Yes
Reserves	Statute 21.18	Statute 21.18
Audited Annual Statement	Traditional CPA	Yes Statutory 120 pages
Non-Audited Quarterly		Yes
Biographical Affidavits		Yes
Premium Tax		Yes
License Fees		\$2,250
Fidelity Bond	ERISA/\$500,000 Max	Domestic Companies
Actuarial Opinions	Yes	Yes

General Fund Contributions to the Health Trusts

Figures from the Division of Finance

ASEA	\$66,000,000
PSEA	\$ 3,600,000
MMP	\$ 617,000
Local 71	\$12,300,000
NEA	\$ 179,000
Total	\$82,996,000



Opposition to Alaska State Legislature House Bill 147 Sections 31 and 32

JIM ASHTON
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Secretary-Treasurer

ROBERT JOHNSON
President

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Summary: Sections 31 and 32 of HB 147 impose unnecessary regulation and costly administrative burden on Trust health plans which were established through the collective bargaining process to provide benefits to state employees.

Imposes a Costly Administrative Burden

- The bill would require the Trusts to file actuarial reports and other documents. Two annual reports would be required, as well as a report each quarter. The estimated cost to the Trust in actuarial fees to produce the required filings is a minimum of \$40,000-\$50,000, assuming the actuary was already familiar with the plan. The fees could increase significantly if the actuary were not already familiar with the plan. In addition, we anticipate administrative costs and legal fees related to these filings.
- The Division of Insurance will bear additional administrative expenses in order to review and process these filings.
- The State and State employees will also bear this administrative burden. The funds held by the Trusts' health plans are to be used to provide health benefits to plan participants. Every dollar that is diverted to administrative expenses is a dollar that is not available to provide health benefit coverage.

Interferes With Collective Bargaining

- This bill would allow the State to unilaterally determine the benefits to be provided to covered participants, because the Trust would be required to comply with all State-mandated benefits, the State-mandated requirements for the plan administered by the Department of Administration, and regulations adopted by the director. Although the Trust plans currently provide coverage at a level that is as high as or higher than what is mandated by the State, the Trust benefits are tailored to the participant group. The Trusts were originally created through the collective bargaining process in order to allow the health benefit contributions to be used in such a way to better benefit participants.
- Under this regulation, the Trust would be required to provide any additional information requested by the director, "relating to the financial condition, transactions, and affairs of the plan." This requirement could be used, to the State's advantage, during the collective bargaining process.

Imposes Requirements which may be Impossible to Meet

- The bill requires that the Trust "establish and maintain a plan of operation that ensures that the plan will remain solvent as certified to by a qualified actuary." It is unlikely that an actuary would assume the liability to "ensure" solvency of any health plan.
- The bill requires filing of contribution rates at least 60 days before the end of the plan year (June 30 for both the PE71 and ASEA plans). The employer contribution is

funded by the legislature, and historically the funding has not been passed by the legislature early enough to enable this filing.

Is Unnecessary

- Each of the Trusts was approved by the Division of Retirement and Benefits and has an existing Letter of agreement in place allowing the provision of coverage to the members of the sponsoring union.
- Each Trust plan is subject to PHSa, HIPAA, COBRA, WHCRA, FMLA, USERRA, MHPA and other federally mandated requirements.
- The Trusts are also regulated by the IRS and have received tax-exempt determination letters as qualified voluntary employee beneficiary associations and must comply with all of the Treasury Regulations associated with VEBA qualification.
- The Trusts already report to the State under the terms of the LOAs.
- Both the PE71 and ASEA plans voluntarily comply with the fiduciary standards set forth in ERISA. The Trustees are fiduciaries, receive fiduciary training, are insured as fiduciaries, and purchase fidelity bonds to protect against dishonesty.
- The Trust plans already provide Summary Plan Descriptions to covered participants.
- The Trust plans undergo an annual audit by a qualified independent certified public accounting firm qualified in employee benefit plan audits. The participants are entitled to a copy of the audit results.
- Participants have an opportunity to appeal denied benefit claims; if they are dissatisfied with the appeal determination, the participant may arbitrate, and if dissatisfied with the decision of the arbitrator may file suit in State Superior Court.
- The Trusts are subject to the jurisdiction of the State of Alaska Superior Courts.

CONF.

COMM.

SB

125

ALASKA STATE LEGISLATURE

Senator Dyson
Senator Huggins
Senator Davis



Representative Anderson
Representative McGuire
Representative Gara

Conference Committee SB 125

May 10, 2005

To: Senator Ben Stevens, Senate President
Representative John Harris, House Speaker

From: SB 125 Conference Committee Members

Re: Request limited power of free conference

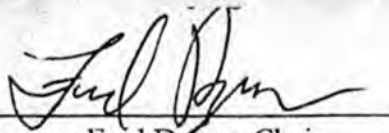
The Conference Committee considering CS SB 125 (JUD) "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

and

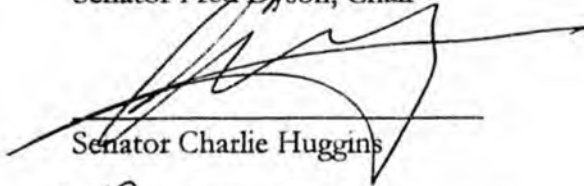
HCS CS SB 125 (FIN) am H "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance for health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

requests limited powers of Free Conference on the following specific points:

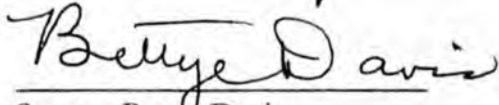
Adding uncodified law to relating to personal needs allowances for persons residing in assisted living facilities replacing section 20 and section 21 of HCS CS SB 125 (FIN) am H dealing with the same subject matter.



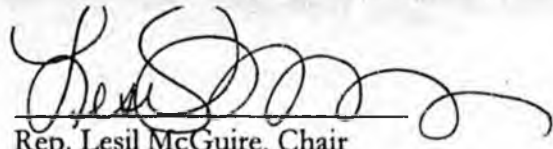
Senator Fred Dyson, Chair



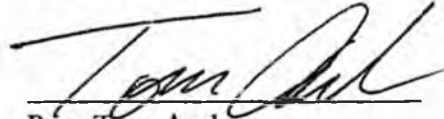
Senator Charlie Huggins



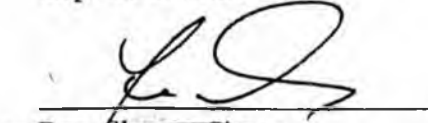
Senator Bettye Davis



Rep. Lesil McGuire, Chair



Rep. Tom Anderson



~~Rep. [unclear]~~

R. Les Gara

Received in the Senate: _____
(Date/Time)

Received in the House: _____
(Date/Time)

CONFERENCE COMMITTEE REPORT

Date: 5/10/05
(Reported out of committee)

MR. PRESIDENT: MR. SPEAKER:

The CONFERENCE COMMITTEE with limited powers of free conference considering:

•Senate Version: without limited powers of free conference considering:

CS FOR SENATE BILL NO. 125(JUD)

"An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

and

•House Version:

HOUSE CS FOR CS FOR SENATE BILL NO. 125(FIN) am H

"An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance or health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

(title change resolution HCR 21)

Recommends the:

CCS SB 125 be adopted.

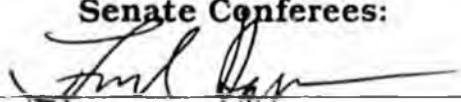
New Title (tech. - see attached) Same Title as: Senate Version House Version

- or - Recommends the: Senate Version House Version be adopted.

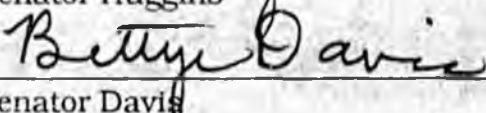
Letter of Intent attached.

FN #	List by Dept(s)	New Fiscal Note	Previous Fiscal Note	Fiscal Impact	Indet.	Zero
2	HSS		x			x
4	HSS	x		x		

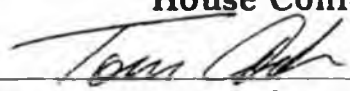
Senate Conferees:


Senator Dyson, Chair


Senator Huggins


Senator Davis

House Conferees:


Representative Anderson


Representative McGuire


Representative Gara

Return Conference Bill and attachments to the Senate Secretary's Office.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: SB125CCS-DHSS-DSDS-05-09-05
 (S) Publish Date: 3/2/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO LICENSING FUNCTIONS OF THE DEPT. OF HEALTH AND SOCIAL SERVICES

RDU: Senior and Disabilities Svcs
 Component: Senior/Disabilities Medicaid Svc

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: _____ Component No. 2662

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	363.5	363.5	363.5	363.5	363.5	363.5
Miscellaneous						
TOTAL OPERATING	363.5	363.5	363.5	363.5	363.5	363.5

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	209.3	209.3	209.3	209.3	209.3	209.3
1003 GF Match	154.2	154.2	154.2	154.2	154.2	154.2
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	363.5	363.5	363.5	363.5	363.5	363.5

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Conference Committee Substitute for SB 125 directs the department to adopt new regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income level set in AS 47.07.02.(b)6 minus \$260.

The effect of the legislation is to reverse regulation changes effective on 6/28/04 and allows for higher room and board charges to those Medicaid waiver recipients who fall under the 300% of SSI eligibility category. The increased room and board charges will reduce the amount waiver recipients have available to offset Medicaid costs. Costs are estimated at 57.58% FMAP for federal participation. (Cont. on Page 2)

Prepared by: Sherry Hill, Special Assistant Phone 465-1618
 Division: Office of the Commissioner Date/Time 05/09/2005
 Approved by: Joel S. Gilbertson, Commissioner Date 05/09/2005
 Agency: Department of Health and Social Services

FISCAL NOTE
FN # 2

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB125CCS-DHSS-DSDS-05-09-05

ANALYSIS CONTINUATION

Below is an outline of the recent history of the department's Medicaid personal needs allowance policies for waiver recipients under the 300% of SSI eligibility category and the cost impact of the proposed legislation.

Prior to 6/28/04 Regulation Change:

- Medicaid waiver recipients under the 300% of SSI eligibility category were allowed to keep \$1,656 as a personal needs allowance, which includes room and board.
- Assisted living homes charged these residents up to \$1,556 for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.

After Regulation Change

- Medicaid waiver recipients under the 300% category are allowed to keep \$679/month ($\$100 +$ SSI payment standard, currently \$579) as a personal needs allowance, which includes room and board.
- Assisted living homes charge individuals \$579 for room and board.
- Assisted living homes let residents retain \$100 for other personal expenses.
- Assisted living homes received an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Resident income in excess of personal needs allowance is used to offset Medicaid charges.

Reversing the Impact of the Regulation Change:

- Medicaid waiver recipients under the 300% category are allowed to keep \$1,396/month as a personal needs allowance, which includes room and board ($\$1,656 - \$260 = \$1,396$).
- Assisted living homes can charge individuals up to \$1,296/month for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.
- Assisted living homes continue to receive an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Assisted living homes can collect up to \$1,556/month in room and board and Medicaid rate increase ($\$1,296 + 260 = \$1,556$).
- Resident income in excess of personal needs allowance is used to offset Medicaid charges. (Cont. on page 3.)

FISCAL NOTE
FN # 2

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB125CCS-DHSS-DSDS-05-09-05

ANALYSIS CONTINUATION

Cost impact of the Reversing Change to 300%ers:

577 adults in assisted living homes on Medicaid waivers

30 percent are 300%ers

50 percent of 300%ers live in homes that have higher room and board charges for 300%ers than for APA recipients.

On average, Medicaid offset is reduced by \$350/month, or \$4,200/year, per resident.

Total Cost = $577 \times 30\% \times 50\% \times \$4,200 = \$363.5$ total funds

GF Cost = \$154.2 at 57.58% FMAP

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 125
 (S) Publish Date: 3/2/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO LICENSING BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES RDU Public Health
 Component: Certification and Licensing

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR Component No. 245

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Because the purpose of this legislation is to streamline the licensing process to achieve those goals of efficiency and cost effectiveness by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights in DHSS, no additional costs or staff resources within the department are anticipated.

Prepared by: Richard Mandsager, MD Phone 465-3139
 Division: Public Health Date/Time 02/17/2005
 Approved by: Joel S. Gilbertson, Commissioner Date 02/28/2005
 Agency: Department of Health and Social Services

Conference Committee Report

In the event that one body (House) does not concur in the changes by the other body (Senate) to their bill (House), the presiding officer from each body will appoint three members to meet in a conference committee to work out the differences. See Uniform Rule 42.

Conference committee reports on House bills are prepared by the Chief Clerk's office and are returned to the Chief Clerk's office upon completion by the conference committee. See Appendices IX and X for samples of conference committee reports. The Senate Secretary's office prepares the conference committee reports on Senate bills.

Once the conference committee is appointed, the committee will determine if there is mutual agreement on previously adopted amendments. If the conference committee requires additional changes, the committee submits an identical written report to each body listing the specific points of disagreement and requests the conference committee be granted limited powers of free conference. See Appendices XI and XII for sample letters requesting limited powers of free conference.

The presiding officers **must grant the powers during session before the committee can continue their business.** The conference committee can then proceed to make changes to the designated versions and return the approved final Conference CS (CCS) and attachments to the appropriate body. The original body will duplicate and submit copies to each body for adoption.

When a conference committee is appointed to consider an appropriation bill, the bill may not be voted on until at least 24 hours after the report has been delivered to the Chief Clerk's or Senate Secretary's office for duplication and distribution to each member. The Chief Clerk or Senate Secretary will note the time of delivery of the report for recording in the journal. See Uniform Rule 42(c).

Note: This was prepared for the House but the procedures are the same.



SENATOR FRED DYSON

MEMORANDUM

May 10, 2005

To: Senator Ben Stevens, Senate President
Representative John Harris, House Speaker

From: Senator Fred Dyson,
Chair, SB 125 Conference Committee

Re: SB 125 Letter of Legislative Intent

The Conference Committee considering CS SB 125 (JUD) "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

and

HCS CS SB 125 (FIN) am H "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance for



SENATOR FRED DYSON

health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

recommends a letter of intent to accompany Conference Committee Substitute for SB 125 as follows:

(a) It is the intent of the legislature that the Department of Health and Social Services repeal 7 AAC 43.105(k)(1)(B).

(b) It is further the intent of the legislature that the Department of Health and Social Services is not responsible for paying any refunding of cost-of-care contributions received under (a) of this section. In addition, any cost-of-care contributions currently outstanding as the result of errors and omissions by a Medicaid recipient, a Medicaid recipient's responsible party, or an assisted living home shall be considered as unattainable and classified as Unrealized Cost Containment for the fiscal year ending June 30, 2005.

(c) It is further the intent of the legislature that the Department of Health and Social Services adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until the Department of Health and Social Services adopts the emergency regulations at 7 AAC 43.1058(k)(1)(B), the Department of Health and Social Services shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. This meets the requirements for a finding of a public health, safety, and welfare emergency under AS 44.62.250.



SENATOR FRED DYSON

(d) It is further the intent of the legislature that the sum of \$363,500 of appropriations made in fiscal year 2006 to the Department of Health and Social Services be used to further the intent specified in (a) – (c) of this section.

Senator Fred Dyson, Chair

Rep. Lesil McGuire, Chair

Senator Charlie Huggins

Rep. Tom Anderson

Senator Bettye Davis

~~Rep. Les Gara~~

Rep. Les Gara

Limbo File Comparison for SB125 (omnibus licensing bill)

Sponsor: Governor (Department of Health and Social Services)
Current Version: HCS CSSB125(FIN) Am 1
Contact: Dick Mandsager, DPH Director, 465-3090, 321-0638
Date: May 9, 2005

Short title:

"An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics."

Summary of changes made in House Finance to SB125 (DHSS agrees with these amendments):

1. Added a reference to the background check immunity section in the section dealing with complaints and investigations in the licensing chapter (AS 47.32.090).
2. Made technical changes to a transition section of the bill [sec. 54(b)].
3. Changed the reference to "volunteer" in the background check and registry section to "unsupervised volunteer."
4. Added a requirement that an individual be notified that his or her name is being placed on the registry.
5. Added a requirement that there be no relation between information placed on the registry and the risk of harm to an entity's clientele before the Department of Health and Social Services may make changes or deletions to information on the registry at the request of the individual whose name appears on the registry.

Amendments on House floor (DHSS does not agree with these amendments):

Amendment 1

This amendment puts into statute a minimum daily rate of reimbursement of \$28 for recipients of "residential supported living services" in Assisted Living Homes licensed under AS 47.32.

This amendment will cost \$963.5 in new General Funds, and the transfer of \$1,632.3 GF among programs.

Amendment 2

The purpose of this amendment is to direct the Department of Health and Social Services to immediately apply for and seek approval for an amendment to its waiver program to provide a new Medicaid option, Companion Care Services. With this language the Department would have little ability to control the costs of the new services.

DHSS estimates that it will cost \$24 million annually, with \$10 million in General Funds. The Department projects that, by FY11, the cost will be over \$34 million total funds.

Senator Gary Stevens recommends the Senate not concur with the floor amendments to HCS CSSB125(FIN) Am H

ALASKA STATE LEGISLATURE

Senator Dyson, Co-Chair
Senator Huggins
Senator Davis



Representative McGuire, Co-Chair
Representative Anderson
Representative Gara

Conference Committee SB 125

The Conference Committee on SB 125 will meet:

Tuesday, May 3, 2005

8:30 am *IC*

Butrovich Room 205

STATE OF ALASKA

Department of Health & Social Services
Division of Public Health

FRANK H. MURKOWSKI, GOVERNOR
P.O. Box 110610
Juneau, Alaska 99811-0610
Telephone: (907) 465-3090
Telefax: (907) 586-1877

Limbo File Comparison for SB125 (omnibus licensing bill)

Sponsor: Governor (Department of Health and Social Services)
Current Version: HCS CSSB125(FIN) Am H
Contact: Dick Mandsager, DPH Director, 465-3090, 321-0638
Date: May 9, 2005

Short title:

"An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics."

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DHSS estimates that it will cost \$24 million annually, with \$10 million in General Funds. The Department projects that, by FY11, the cost will be over \$34 million total funds.

Senator Gary Stevens recommends the Senate not concur with the floor amendments to HCS CSSB125(FIN) Am H

AMENDMENT

OFFERED IN THE CONFERENCE COMMITTEE

BY:

TO: HOUSE CS FOR CSSB 125 (FIN) am H

Page 1, following "Services;", through line 12:

Delete all material.

Page 16, lines 2 through 21:

Delete all material.

Renumber the following bill sections accordingly.

Page 41, line 3.

Delete all material.

Renumber the following bill sections accordingly.

Page 41, lines 13 - 16:

Delete all material.

Renumber the following bill sections accordingly.

Page 42, line 26 through page 43, line 25:

Delete all material.

Renumber the following bill sections accordingly.

Page 47, following line 14:

Insert new bill sections to read:

“* Sec. 59. The uncodified law of the State of Alaska is amended by adding a new section to read:

INTENT OF THE LEGISLATURE REGARDING PERSONAL NEEDS
ALLOWANCE FOR ASSISTED LIVING HOMES. (a) It is the intent of the legislature that the Department of Health and Social Services repeal 7 AAC 43.105(k)(1)(B).

(b) It is further the intent of the legislature that the Department of Health and Social Services is not responsible for paying any refunding of cost-of-care contributions received under (a) of this section. In addition, any cost-of-care contributions currently outstanding as the result of errors and omissions by a Medicaid recipient, a Medicaid recipient's responsible party, or an assisted living home shall be considered as unattainable and classified as Unrealized Cost Containment for the fiscal year ending June 30, 2005.

(c) It is further the intent of the legislature that the Department of Health and Social Services adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until the Department of Health and Social Services adopts the emergency regulations at 7 AAC 43.1058(k)(1)(B), the Department of Health and Social Services shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. This meets the requirements for a finding of a public health, safety, and welfare emergency under AS 44.62.250.

(d) It is further the intent of the legislature that the sum of \$363,500 of appropriations made in fiscal year 2006 to the Department of Health and Social Services be used to further the intent specified in (a) – (c) of this section.

* Sec. 60. The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. Sec. 59(a) is retroactive to July 1, 2004.

* Sec. 61. Sec. 59(c) is effective July 1, 2005.”

Renumber bill sections accordingly.

Page 47, line 15:

Delete “20, 21, 51, 55”

Renumber all internal references in accordance with this amendment.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB125CCS-DHSS-DSDS-05-03-05

Revision Date/Time (Note if correction): _____

() Publish Date: _____
Dept. Affected: Health & Social Services

Title RELATING TO LICENSING FUNCTIONS OF THE DEPT. OF HEALTH AND SOCIAL SERVICES

RDU Senior and Disabilities Svcs
Component Senior/Disabilities Medicaid Svc

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester _____ Component No. 2662

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	363.5	363.5	363.5	363.5	363.5	363.5
Miscellaneous						
TOTAL OPERATING	363.5	363.5	363.5	363.5	363.5	363.5

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	209.3	209.3	209.3	209.3	209.3	209.3
1003 GF Match	154.2	154.2	154.2	154.2	154.2	154.2
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	363.5	363.5	363.5	363.5	363.5	363.5

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Conference Committee Substitute for SB 125 directs the department to adopt new regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income level set in AS 47.07.02.(b)6 minus \$260.

The effect of the legislation is to reverse regulation changes effective on 6/28/04 and allows for higher room and board charges to those Medicaid waiver recipients who fall under the 300% of SSI eligibility category. The increased room and board charges will reduce the amount waiver recipients have available to offset Medicaid costs. Costs are estimated at 57.58% FMAP for federal participation. (Cont. on Page 2)

Prepared by: Sherry Hill, Special Assistant
Division: Office of the Commissioner
Approved by: Joel S. Gilbertson, Commissioner
Agency: Department of Health and Social Services

Phone 465-1018
Date/Time 05/09/2005
Date 05/09/2005

FISCAL NOTE
FN #

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB125CCS-DHSS-DSDS-05-09-05

ANALYSIS CONTINUATION

Below is an outline of the recent history of the department's Medicaid personal needs allowance policies for waiver recipients under the 300% of SSI eligibility category and the cost impact of the proposed legislation.

Prior to 6/28/04 Regulation Change:

- Medicaid waiver recipients under the 300% of SSI eligibility category were allowed to keep \$1,656 as a personal needs allowance, which includes room and board.
- Assisted living homes charged these residents up to \$1,556 for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.

After Regulation Change

- Medicaid waiver recipients under the 300% category are allowed to keep \$679/month (\$100 + SSI payment standard, currently \$579) as a personal needs allowance, which includes room and board.
- Assisted living homes charge individuals \$579 for room and board.
- Assisted living homes let residents retain \$100 for other personal expenses.
- Assisted living homes received an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Resident income in excess of personal needs allowance is used to offset Medicaid charges.

Reversing the Impact of the Regulation Change:

- Medicaid waiver recipients under the 300% category are allowed to keep \$1,396/month as a personal needs allowance, which includes room and board ($\$1,656 - \$260 = \$1,396$).
- Assisted living homes can charge individuals up to \$1,296/month for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.
- Assisted living homes continue to receive an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Assisted living homes can collect up to \$1,556/month in room and board and Medicaid rate increase ($\$1,296 + 260 = \$1,556$).
- Resident income in excess of personal needs allowance is used to offset Medicaid charges. (Cont. on page 3.)

FISCAL NOTE
FN #

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB125CCS-DHSS-DSDS-05-09-05

ANALYSIS CONTINUATION

Cost impact of the Reversing Change to 300%ers:

577 adults in assisted living homes on Medicaid waivers

30 percent are 300%ers

50 percent of 300%ers live in homes that have higher room and board charges for 300%ers than for APA recipients.

On average, Medicaid offset is reduced by \$350/month, or \$4,200/year, per resident.

Total Cost = $577 \times 30\% \times 50\% \times \$4,200 = \$363.5$ total funds

GF Cost = \$154.2 at 57.58% FMAP

AMENDMENT

OFFERED IN THE CONFERENCE COMMITTEE

BY:

TO: HOUSE CS FOR CSSB 125 (FIN) am H

Page 1, line 10, following "Services;", through line 12:

Delete all material.

Page 16, lines 2 through 21:

Delete all material.

Renumber the following bill sections accordingly.

Page 41, line 3.

Delete a' material.

Renumber the following bill sections accordingly.

Page 41, lines 13 - 16:

Delete all material.

Renumber the following bill sections accordingly.

Page 42, line 26 through page 43, line 25:

Delete all material.

Renumber the following bill sections accordingly.

Page 47, following line 14:

Insert new bill sections to read:

**** Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTENT OF THE LEGISLATURE REGARDING PERSONAL NEEDS

ALLOWANCE FOR ASSISTED LIVING HOMES. (a) It is the intent of the legislature that the Department of Health and Social Services repeal 7 AAC 43.105(k)(1)(B).

(b) It is further the intent of the legislature that the Department of Health and Social Services is not responsible for paying any refunding of cost-of-care contributions received under (a) of this section. In addition, any cost-of-care contributions currently outstanding as the result of errors and omissions by a Medicaid recipient, a Medicaid recipient's responsible party, or an assisted living home shall be considered as unattainable and classified as Unrealized Cost Containment for the fiscal year ending June 30, 2005.

(c) It is further the intent of the legislature that the Department of Health and Social Services adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until the Department of Health and Social Services adopts the emergency regulations at 7 AAC 43.1058(k)(1)(B), the Department of Health and Social Services shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. This meets the requirements for a finding of a public health, safety, and welfare emergency under AS 44.62.250.

(d) It is further the intent of the legislature that the sum of \$363,500 of appropriations made in fiscal year 2006 to the Department of Health and Social Services be used to further the intent specified in (a) – (c) of this section.

* **Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. Sec. 59(a) is retroactive to July 1, 2004.

* **Sec. 61.** Sec. 59(c) is effective July 1, 2005.”

Renumber bill sections accordingly.

Page 47, line 15:

Delete “20, 21, 51, 55”

Renumber all internal references in accordance with this amendment.



ALASKA STATE LEGISLATURE

May 10, 2005

Mr. President,
Mr. Speaker,

The Conference Committee considering CS SB 125 (JUD) "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

and

HCS CS SB 125 (FIN) am H "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance for health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

requests limited powers of Free Conference on the following specific points:

Adding uncodified law relating to personal needs allowances for persons residing in assisted living facilities replacing section 20 and section 21 of HCS CS SB 125 (FIN) am H dealing with the same subject matter.

5/10/2005 8:08 AM

The detailed language on this request is attached.

Senator Fred Dyson, Chair

Rep. Lesil McGuire, Chair

Senator Charlie Huggins

Rep. Tom Anderson

Senator Bettye Davis

Rep. Sharon Cissna



ALASKA STATE LEGISLATURE

May 10, 2005

Mr. President,
Mr. Speaker,

The Conference Committee considering CS SB 125 (JUD) "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

and

HCS CS SB 125 (FIN) am H "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance for health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

recommends a letter of intent to accompany Conference Committee Substitute for SB 125 as follows:

(a) It is the intent of the legislature that the Department of Health and Social Services repeal 7 AAC 43.105(k)(1)(B).

(b) It is further the intent of the legislature that the Department of Health and Social Services is not responsible for paying any refunding of cost-of-care contributions received under (a) of this section. In addition, any cost-of-care contributions currently outstanding as the result of errors and omissions by a Medicaid recipient, a Medicaid recipient's responsible party, or an assisted living home shall be considered as unattainable and classified as Unrealized Cost Containment for the fiscal year ending June 30, 2005.

(c) It is further the intent of the legislature that the Department of Health and Social Services adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until the Department of Health and Social Services adopts the emergency regulations at 7 AAC 43.1058(k)(1)(B), the Department of Health and Social Services shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. This meets the requirements for a finding of a public health, safety, and welfare emergency under AS 44.62.250.

(d) It is further the intent of the legislature that the sum of \$363,500 of appropriations made in fiscal year 2006 to the Department of Health and Social Services be used to further the intent specified in (a) – (c) of this section.

Mr. President
Mr. Speaker
Conference Committee on SB 125
Page 3

Senator Fred Dyson, Chair

Rep. Lesil McGuire, Chair

Senator Charlie Huggins

Rep. Tom Anderson

Senator Bettye Davis

Rep. Sharon Cissna

Alaska State Legislature

House of Representatives

Session address:
Alaska State Capitol
Juneau, Alaska 99801-1182
1-888-465-2647 (toll free)
1-907-465-3518 (fax)



Interim address:
716 West 4th Avenue
Anchorage, Alaska 99501-2133
1-907-269-0106
1-907-269-0109 (fax)

Representative Les Gara

May 9, 2005

Stacie Kraly
Assistant Attorney General
P.O. Box 110300
Juneau, AK 99811-0300
Via Fax: (907) 465-2539

Commissioner Joel Gilbertson
Dept. of Health and Social Services
P.O. Box 110601
Juneau, AK 99811
Via Fax: (907) 465-3068

Dear Ms. Kraly & Commissioner Gilbertson:

Thank you for your letter today. It unfortunately fails to answer the question I've had every time I've raised this issue with the Department of Health and Social Services. I asked the question at least 3 times in the past day, and in writing twice last summer. I'd appreciate an answer.

You contend it is legal for Assisted Living Homes to use Medicaid Funding to cover the \$200 of Room and Board payments formerly paid indirectly through the Adult Public Assistance program. I'd like you to promise, in writing, that you will stand behind your position. That is, ***I would like an assurance that you will hold any Assisted Living Home harmless, and cover their liability, if the Federal Government seeks reimbursement of the Medicaid funds you've authorized them to use.***

The federal government has been quite clear in the past that Medicaid cannot be used to pay for room and board. If you are taking the position that your new regulations allowing this use of Medicaid by Assisted Living Homes are legal, you should offer our Assisted Living Homes the assurance that they will not be held liable for following your instructions. If you are not willing to stand behind your new regulations by doing this, then I will continue to seek a complete reversal of those regulations. Without a hold harmless promise, you will continue to leave Assisted Living Homes at their financial peril for using Medicaid funds for room and board, and for accepting your assurance on this matter.


E-mail: Representative_Les_Gara@legis.state.ak.us



Stacie Kraly, Commissioner Gilbertson
May 9, 2005
Page 2

Reading between the lines of your many responses to me to date, my belief is that unless you provide this assurance, it is your concession that your new regulations replacing APA funds with Medicaid Funding are of questionable legality.

Sincerely,



Representative Les Gara

cc: Reps. McGuire, Hawker & Anderson

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

FRANK H. MURKOWSKI, GOVERNOR

LEGISLATION & REGULATIONS SECTION
P.O. BOX 110300
DIMOND COURT HOUSE, 5TH FLOOR
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-2539

May 9, 2005

The Honorable Les Gara
House of Representatives
Alaska State Capitol, Room 418
Juneau, AK 99801-1182

Re: HCS CSSB 125(FIN) am H Licensing of Medical or Care Facilities
Our file: 773-05-0016

Dear Representative Gara:

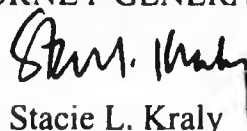
You asked the Department of Law to provide an opinion regarding whether the refinance of the waiver program related to the payments to assisted living homes in 2004 violates federal Medicaid law. The Department of Law reviewed a number of regulations related to the Adult Public Assistance Program and the Home and Community-Based Waiver program during the spring of 2004. The department opined during those reviews that there were no legal problems in the proposed regulations and encouraged that the regulations be adopted. Additionally, Jean Mischel opined in a memorandum to Rep. Coghill dated August 5, 2004, that there was no violation of the Medicaid program under these proposed regulations. We concur with her analysis.

If you need additional information, please let me know.

Sincerely,

DAVID W. MARQUEZ
ATTORNEY GENERAL

By:



Stacie L. Kraly
Assistant Attorney General

SLK/mkb

cc: Kevin Jardell, Legislative Director, Office of the Governor
Randy Ruaro, Acting Legislative Contact, Department of Law
Sherry Hill, Legislative Contact, Department of Health and Social Services
Deborah E. Behr, Chief Assistant Attorney General, Department of Law



**CONFIDENTIAL
FACSIMILE TRANSMISSION
COVER SHEET**

*Attorney General's Office
Human Services
123 4th Street, 5th Floor
P.O. Box 110300
Juneau, AK 99811-0300*

PHONE: (907) 465-3600 FAX: (907) 465-2539

To: Jean Mischel (2029)
From: Stacie L. Kraly
Date: May 10, 2005
Number Of Pages Including This Sheet: 4

Amendment to insert in the conference committee substitute to CSSB 125(FIN) am H.

Please work from house version, which keeps the finance amendments that everyone likes and wants incorporated in the bill.

Call with questions/clarification/whatever.

Thanks.

The information contained in this FAX is confidential and/or privileged. This FAX is intended to be reviewed initially by only the individual named above. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify and shred/destroy it. Thank you.

**PLEASE INFORM ME IMMEDIATELY IF YOU DO NOT RECEIVE THIS
TRANSMISSION IN FULL: (907) 465-4164 ASK FOR STACIE**

Henriksen
05/10/05
4:15 pm

AMENDMENT

OFFERED IN THE CONFERENCE COMMITTEE

BY:

TO: HOUSE CS FOR CSSB 125 (FIN) am H

Page 1, line 10, following "Services;" through line 12:

Delete all material, and insert "relating to the personal needs allowance of assisted living homes, and authorizing emergency regulations;"

Page 16, lines 2 through 21:

Delete all material.

Re-number the following bill sections accordingly.

Page 41, line 3.

Delete all material.

Re-number the following bill sections accordingly.

Page 41, lines 13 - 16:

Delete all material.

Re-number the following bill sections accordingly.

Page 42, line 26 through page 43, line 25:

Delete all material.

Re-number the following bill sections accordingly.

Page 47, following line 14:

Insert new bill sections to read: