

ALASKA LEGISLATURE

1965

HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000

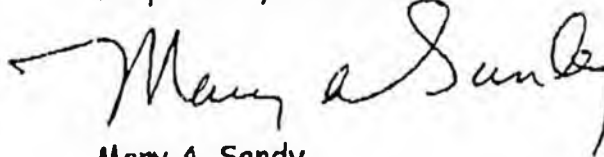
gang activity here in the prison I believe their people on the outside would do anything they ask.

So you can see that I believe I am just as much in risk as the correctional officers who only have to do 20 years to retire. I do not believe it is fair that we have to do 30 years in the same environment.

Please support this bill sponsored by Senator Davis.

Thank you for your time and consideration on this issue.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary A. Sandy". The signature is written in black ink and is positioned to the left of the typed name.

Mary A. Sandy
Concerned Employee

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

WILDMOOD CORRECTIONAL CENTER

MEMORANDUM

TONY KNOWLES, GOVERNOR

10 CHUGACH AVENUE
KENAI, ALASKA 99511-7099
PHONE: (907) 260-7200
FAX: (907) 260-7208

TO: Candace Brower

DATE: February 23, 2000

THRU:

FROM: Hal Fimple
Food Service Manager

SUBJECT: House Bill 159

Don't you think it's time for you to do what is right? What you think it might cost in dollars and cents, is not the question. The question is are you going to continue to allow some departments to discriminate against some employees? In the department of corrections, we have many so-called support staff positions. Some of these positions supervise from five to 100 convicted felons everyday in areas that are some of the most violent in the prison. Food service, maintenance, nursing, and teaching. These are high turn over and very high stress related positions.

Security and safety are the number one priority of every staff member. With little, or no training, these people are put in harms way every working day. It is only right and certainly fair, that these people receive some of the benefits that the correctional officers and probation officers, who in many cases never supervise or deal with inmates on a one on one situation, receive. We understand that we are not "peace officers", nor, in fact, are correctional or probation officers. Security or safety are the number one responsibility of ALL correctional staff.

I have been with the department for over fifteen years and I have personally been involved in many altercations. I have also responded to every back up call while on duty.

We could go on and on with all the war stories, but the bottom line is that most of the supervising support staff are required to have, from four to eight years experience before they are considered for a job, while correctional officers can walk in, twenty one years old, and go to work with zero experience with a twenty year retirement program. The support staff not only has a thirty year retirement program, but they also must have extensive experience prior to employment. You have the opportunity to correct a great injustice, and it will not cost the state one penny.

Thank you for doing the right thing.

HF/sah

FISCAL NOTE

Bill Version: HB 159

(H) Publish Date: 4/28/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Administration
 Title An Act granting certain employees in correctional BRU Centralized Administrative Services
facilities status as peace officers under PERS. Component Retirement and Benefits
 Sponsor Rep. Davis
 Requester House State Affairs Component Serial No. 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	375.0	375.0	375.0	375.0	375.0	375.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	375.0	375.0	375.0	375.0	375.0	375.0

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	375.0	375.0	375.0	375.0	375.0	375.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	375.0	375.0	375.0	375.0	375.0	375.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Approximately 274 employees of the Department of Corrections are affected by this bill. HB 159 will increase the State of Alaska's total contributions to PERS by approximately \$375.0 per year. This cost will change as salaries change. HB 159 will also affect other political subdivisions which have correctional facilities.

Prepared by Guy Bell, Director Phone _____
 Division Retirement and Benefits Date/Time _____
 Approved by Commissioner [Signature] Date 4/19/99
 Agency Department of Administration

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1-LS0699\D
Cramer
2/21/00

CS FOR HOUSE BILL NO. 159(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES DAVIS, Smalley, Kerttula

A BILL

FOR AN ACT ENTITLED

1 "An Act permitting certain employees in correctional facilities to convert their
2 credited service under the public employees' retirement system to credited service
3 as peace officers."

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

5 * **Section 1.** AS 39.35.370 is amended by adding a new subsection to read:

6 (g) When an employee who was employed in the public employees' retirement
7 system as an employee of a correctional facility other than as a correctional officer or
8 correctional superintendent applies for appointment to retirement, the employee may
9 convert the credited service for that position to credited service as a peace officer by
10 claiming the service as peace officer service. An employee who has converted
11 credited service to peace officer service under this subsection shall be treated as a
12 peace officer for purposes of this chapter. When the member claims this credited
13 service as peace officer service, an indebtedness of the member to the system shall be
14 established. The indebtedness is equal to the full actuarial cost of the conversion of

1
2
3
4

the credited service to treatment as peace officer service. Any outstanding indebtedness that exists at the time the member is appointed to retirement will require an actuarial adjustment to the benefits payable based upon the conversion of the credited service.

Sec. 11.81.900. Definitions.

(b) In this title, unless otherwise specified or unless the context requires otherwise,

(7) "correctional facility" means premises, or a portion of premises, used for the confinement of persons under official detention;

(37) "official detention" means custody, arrest, surrender in lieu of arrest, or actual or constructive restraint under an order of a court in a criminal or juvenile proceeding, other than an order of conditional bail release;

(41) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders;

Sec. 33.30.901. Definitions.

In this chapter, unless the context requires otherwise,

(4) "correctional facility" or "facility" means a prison, jail, camp, farm, half-way house, group home, or other placement designated by the commissioner for the custody, care, and discipline of prisoners; a "state correctional facility" means a correctional facility owned or run by the state;

(12) "prisoner"

(A) means a person held under authority of state law in official detention as defined in AS 11.81.900(b);

(B) includes a minor committed to the custody of the commissioner when,

(i) under AS 47.12.030, 47.12.065, or 47.12.100, the minor has been charged, prosecuted, or convicted as an adult; or

(ii) under AS 47.12.160(e), the minor has been ordered transferred to the custody of the commissioner;

TO: Representative Thierriault

February 22, 2000

From: W. Roger Hale, PA-C
P.O.Box 494
Palmer, AK 99645
(907)745-0357

RE: H.B. 159

Dear Representative Thierriault:

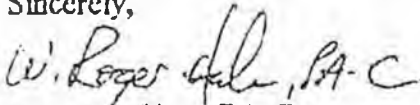
I am writing in support of H.B. 159, sponsored by Representative Gary Davis. I have worked in the Department of Corrections, as a Physician Assistant, for almost 15 years and have watched all my peers leave after a short time. I am the longest employed medical provider within the department.

The jobs of an Institutional Health Care Officer, and that of my nurses, can be an extremely stressful position. Daily we are left without security supervision, where we are alone with potentially violent, and often very ill inmates. On a regular basis, as part of our job, we are exposed to blood and body wastes of HIV and hepatitis infected inmates. Whenever there is an altercation, medical is the first one called. I cannot think of one other position within the DOC that is as high risk as our jobs are.

Due in part to the high stress and high risk, we have an extremely high turn over rate in my position, and that of the other medical staff. Medicine within the prison walls is virtually nothing like that within the private sector. Because of the uniqueness of the field, there is a vast amount of expense to the State, in training costs. With the high turn over rate, this adds to costs that the State could eliminate with the passing of H.B.159.

Again, I am in support of H.B. 159 and encourage your support as well.

Sincerely,



W. Roger Hale, PA-C
Palmer Correctional Center
Institution Health Care Officer

MEDICAL MEMORANDUM

AMCC Department of Corrections State of Alaska

TO: BOOKING *Rep Thiermann*
 KITCHEN
 COMPLIANCE

DATE: 2-22-00

RE: *Health Bill 159th*

- ① yes there is ↑ stress & ↑ risk in our jobs. we deal w/ HIV, AIDS, blood pathogens every day, we need hazardous pay
 - ② we also have one of the highest turnover in this field, because of hazard conditions & not enough training for the new employees into this field.
 - ③ need more training for new medical staff & new officers to deal with the public. This leads to ↑ cost of trainers & trainees.
- yes we need to pass 159th and retire in 20 yrs -

Thank you
 Delois Ford
 Medical Dept.

P5 I have 14 yrs

HB

159

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT OF
SFC 4/16/00

DATE: 4/14/00

FURTHER:

DATE TURNED
IN TO OFFICE: 16 April 00

Finance Committee considered CS FOR HOUSE BILL NO. 159(FIN) am

"An Act permitting certain employees in state correctional facilities or employed in the Department of Corrections to convert their credited service under the public employees' retirement system to credited service as peace officers."

and recommends:

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

- Senate Bill:
- same title
 - new title
- House Bill:
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>W. Adams</i>	X	<i>Rec'd & All</i>	✓		
		<i>Gary Hilden</i>	✓		
		<i>Herb A. Finner</i>	✓		
		<i>John Doolley</i>	✓		
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>Alan R. Powell</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<i>Admin</i>	<i>2/24/00</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

Bill Version... CSHB 159 (FIN)

(H) Publish Date: 2/25/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 41600

Revision Date/Time _____ Dept. Affected Administration
 Title An act granting certain employees in state BRU Centralized Administrative Services
correctional facilities status as peace officers... Component Retirement and Benefits
 Sponsor Representative Davis
 Requester House Finance Component No. 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Public Employees' Retirement System (PERS) allows peace officers to retire with 20 years of service and non-peace officers to retire with 30 years of service, regardless of age. The Finance Committee substitute to HB 159 would allow a non-correctional officer with 20 years of PERS state correctional facility service to convert that service to service as a peace officer, thereby allowing the individual to retire. The individual would be required to pay the full actuarial cost of this conversion, either in a lump sum or through a lifetime retirement benefit reduction. Since the full actuarial cost is paid by the employee, this legislation has no fiscal impact to the State of Alaska or other PERS employers.

Prepared by: Guy Bell Phone 465-4471
 Division Retirement and Benefits Date/Time 2/24/00 11:17 AM
 Approved by Commissioner Robert Poe Jr. Date 2/24/00
 Agency Department of Administration

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ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

Committee Substitute to House Bill 159 (FIN) am Sponsor Statement

Correctional officers, like police officers, parole officers and fire fighters have the opportunity to retire after acquiring 20 years of service. This opportunity is offered primarily as an employment incentive. The state recognizes that these individuals are in a highly stressful and dangerous type of employment and offers the 20-year retirement as an inducement to remain with their careers.

Correctional officers, however, are not the only employees at Alaska's facilities faced with stressful, dangerous situations. Most other employees also have consistent contact with inmates on a daily basis. It doesn't matter whether they are working in the kitchen, in the infirmary, in maintenance, in the library or in the administrative offices. These employees work alongside of inmates every day. If there is a problem requiring a "lock down" situation, these employees are included in that lock down. It is this type of stress that can and does lead to high employee turnover. Allowing them to retire after 20 years of service instead of the current 30-year requirement can provide the incentive needed to keep them on the job.

House Bill 159 provides non-correctional officer employees this opportunity and incentive. It allows individuals to retire after 20 years of credited service at a correctional facility provided they pay the full actuarial cost of converting their service to service as a peace officer or agree to take an actuarial reduction in their retirement benefits.

House Bill 159 recognizes that any type of employment at correctional facilities can be stressful and dangerous. It provides individuals who work there an incentive to remain at their jobs. It can also result in benefits to the state. With less employee turnover, fewer funds are needed to train new employees. These savings can revert to the general fund, or they can be used to provide additional on-going training for existing personnel.

Additionally, HB 159 enables Department of Corrections employees in management positions of the division responsible for institutions or for community corrections to convert their service in the management positions to service as a peace officer. Often these positions are best filled by former correctional facility superintendents who have participated in the peace officer retirement system. When promoted to the departmental position, they are placed in the normal 30-year retirement system. This can cause a hardship on the department when recruiting for vacant positions because it is a deterrent to those most qualified for the positions. Allowing individuals to convert their management position service to that of a peace officer removes this deterrent and allows the department to more easily obtain those individuals most qualified for those positions.

HB159SS04/13/00



ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

Committee Substitute for House Bill 159(Fin) am

Sectional Analysis

"An Act granting certain employees in correctional facilities or employed in the Department of Corrections to convert their credited service under the public employees retirement system to credited service as peace officers"

Section 1: Allows non-correctional officer employees of a state correctional facility as defined in AS 33.30.901 to convert their credited service in that position to credited service as a peace officer upon retirement. Requires an employee who converts this service to service as a peace officer to pay the full actuarial cost of the conversion or to take an actuarial adjustment to the benefits payable based upon the conversion.

Allows Department of Corrections employees in management positions in the division responsible for institutions or for community corrections to convert their credited service in that position to credited service as a peace officer upon retirement. Requires an employee who converts this service to service as a peace officer to pay the full actuarial cost of the conversion or to take an actuarial adjustment to the benefits payable based upon the conversion. Management positions include division director, deputy director and assistant director.

AS 33.30.901(4) states

"correctional facility" or "facility" means a prison, jail, camp, farm, half-way house, group home, or other placement designated by the commissioner for the custody, care, and discipline of prisoners; a "state correctional facility" means a correctional facility owned or run by the state

HB159SA04/13/00



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Finance Committee on HB 159, dated 4/16/00.

My name is Patti Hurt, and I'm a correctional nurse at MatSu PreTrial, in Palmer. I have worked in this jail for 13 years this month. I am a responsible, experienced, and valuable state employee in this position. I have been there for inmate and staff alike in every situation a body can go through, except childbirth, while on duty and I have provided first-responder care with expertise. I am in the highest risk category in nursing for exposure to HIV, Hepatitis B & C, and tuberculosis.

I have been exposed also to the same stress, risks, and dangers that other peace officers are, working side-by-side with correctional officers in bad situations. I breathe in the pepper spray used to chemically take-down an inmate (or dorm), I perform the CPR on inmate, staff, or visitor if needed. I'm the person that counsels someone seeking HIV status, and then be the one that delivers the news of the tests, and helps the person to learn how to live with it without hurting others. I have had prior inmates follow me home from businesses in the Valley. I have inmates threaten me and threaten my children when they are denied things in jail. I am verbally abused every work week, things being said to me that a reasonable decent person would not tolerate on the street from someone.

My prior job experiences of working in every area of a hospital and nursing home has been used in this job. I enjoy this job—it is a specialty of nursing that has national certification recognizing it. I perform a type of nursing that not many people can or will do, and I certainly do not receive any thanks from my clientele. The Department of Corrections is not known for its Thank-yous, either, I assure you.

Turnover in this specialty is a major issue. I have lost count of how many state (and contract) nurses I have known in the department because of burnout and turnover. I can do this work for 20 years, but I can't do it for 30 years. I am presently earning another degree in nursing to allow me to move onward and upward out of Corrections because I know I will not last until retirement at 30 years here.

A vote of passage for HB 159 would be gratefully appreciated by me and every other correctional nurse that enjoys this kind of nursing. You will find a dramatic downturn in short-term nurses and far more nurses willing to continue through the especially tough times for a 20 year retirement. It is the nurses with my experience and savvy that save the State big bucks in malpractice and negligent medical lawsuits.

Thank you for considering what I've written to you.

Patti Hurt, RN, MSPT
P.O. Box 3691, Palmer, AK
(907)764-1070 home, unlisted
(907)746-0338 office.

ORIGINAL



1

ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SENATE FINANCE
(committee name)
committee on HB 159 dated 4/16/2000
(bill/subject)

PLEASE Support HB 159!!
I AM HERE AT THE SEWARD LIO.
WE ARE NOT SURE WHEN YOU WILL
HEAR THIS BILL, SO I AM WRITING MY
THOUGHTS JUST IN CASE WE MISS THIS
HEARING - OK, THIS BILL REPRESENTS FAIRNESS
AND EQUITY TO ALL DOC EMPLOYEES. IMAGINE
WORKING RIGHT NEXT TO SOMEBODY WHO (IS REWARDED)
IN THE SAME JOB AND RISKS AS YOURSELF AND
THEY CAN RETIRE 10 YEARS EARLIER! DOC
IS A TEAM - WE MUST ALL WORK TOGETHER -
THE HARD FEELINGS ARE THERE - THIS BILL ->

Signed:

Kelly Martin
(Testifier)

(Representing / Optional)

Seward, AK
(Address)

(Phone No.)



2

ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SENATE FINANCE
(committee name)
committee on HB 159, dated 4/16/2000
(bill/subject)

WOULD DEFINITELY MAKE FOR A MORE HUMOROUS
WORK ENVIRONMENT AND THIS MAKE FOR
A HAPPY TEAM PLAYERS! TO ME, IT IS
LUDICRIOUS TO HAVE TO ASK FOR THE BENEFITS
THAT MY FELLOW WORKERS ALREADY HAVE!

WE ARE FORTUNATE TO HAVE INTELLIGENT
MEN AT DOC, WHO TAKE SUPERINTENDENT AND DIRECTOR
POSITIONS EVEN THOUGH THEY DO NOT GET THE
SAME RETIREMENT AS THEIR SUBORDINANTS!!
OH, BY THE WAY - IT IS PALM SUNDAY - WE ARE SITTING
HERE IN SEWARD AT THE LIO - THE HEARING WE WERE
TOLD WOULD START AT 1:00 AND IT IS NOW 1:30~
WHERE ARE YOU GUYS! I WORK TWO JOBS & TOOK OFF
FROM WORK TO TESTIFY AND YOU AREN'T THERE! PLEASE
PASS THIS BILL SO, I DON'T HAVE TO
MISS ANY MORE WORK! THANK YOU!

Signed:

(Testifier)

Kelly Martin

(Representing / Optional)

PO Box 1067

(Address)

Seward, AK 99604

(Phone No.)

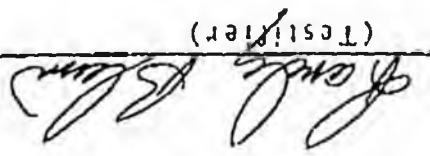
 (Phone No.)
 907-224-3720

 (Address)
 PO Box 1772

 (Representing / Optional)

 (Testifier)

Signed:



THANK YOU.

I ASK YOUR SUPPORT ON HB-159, IN THE FOOD SERVICE
 MANAGER AT SPRING CREEK CORRECTIONAL CENTER. THIS BILL I
 HOPE WILL STOP THE AMOUNT OF HIGH TURN-OVER IN THE
 FOOD SERVICE DEPARTMENT APPROXIMATELY 80 INDIVIDUALS IN THE
 LAST 8 YEARS. THIS COST MONEY ON OVERTIME AND STAFF
 TRAINING. WITH NO COST TO THE STATE, THIS IS A VERY
 GOOD BILL FOR THE EMPLOYEES AND THE STATE.

Please enter into the record my testimony to the _____
 (committee name) _____
 HB-159 _____, dated _____
 (bill/subject) _____
 4-16-00

ALASKA STATE LEGISLATURE



Testimony



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate Finance
(committee name)
committee on HB 159 dated 4-16-00
(bill/subject)

Please support HB 159. With the change in the bill stating employees can now start paying their indebtedness as soon as they claim it, there will not be a bill as large as Guy Bell has projected, at time of retirement. Each employee can start paying now. With no cost to the State Budget, why not vote YES? This is good for employees of correctional facilities. We should be receiving equal benefits for the retirement.

Signed: Cary A. Quiring
(Testifier)
(Representing / Optional)
P.O. Box 1943
(Address)
907) 224-7202
(Phone No.)

SENATE FINANCE COMMITTEE

SIGN-IN

HB 159-PERS PEACE OFFR STATUS CORRECTION EMPLOYEE

NAME: Guy Bell Subject/Bill No: HB 159
Co./Dept./Title: Retirement + Benefits Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

HB

161

HFIN

FILE

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

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

March 31, 1999

The Honorable Eldon Mulder
The Honorable Gene Therriault
House Finance Committee, Co-Chair
State Capitol, Room 507 and 511
Juneau, AK 99801-1182

Dear Representatives Mulder and Therriault:

The House Finance Committee will be considering HB161 this afternoon. This bill has the potential to seriously effect the continuity and amount of benefits paid to a large number of people. I am providing you with a summary of its potential impacts and some of the difficulties that the Department will face if it were to become law.

Because the language in HB 161 does not specify which programs and individuals it is intended to effect, we can only assume application of its provisions to all of the benefit programs administered by Health and Social Services with the exception of those which are fully federally funded. Therefore, the following analysis includes the:

- Alaska Temporary Assistance Program (ATAP)
- Adult Public Assistance (APA)
- General Relief Assistance (GRA)
- Medicaid
- Chronic Acute Medical Assistance (CAMA)
- Foster Care—including the Foster Care Base Rate, Foster Care Special Needs, and Foster Care Augmentation components
- Subsidized Adoption and Guardianship.

Alaska Temporary Assistance Program (ATAP)

The Alaska Temporary Assistance Program was established by statute in 1997 (AS 47.27.005). The focus of the Alaska Temporary Assistance Program is to provide temporary financial assistance to poor families and to help those families off assistance, out of poverty and toward self-sufficiency through employment. Assistance payments are intended to help poor families with their basic living expenses (such as rent, and self-sufficiency services) while they take steps to move off assistance.

Maximum payments for recipients are specified in AS.47.27.025(B); for example, the maximum payment for a family of three is \$923 a month, a pregnant woman receives \$514 per month, and a child in relative care receives \$452 per month. A typical Temporary Assistance family consists of a single mother with two children, and little or no other source of monthly income. In the past, we have been advised by the Department of Law that a reduction in these benefits would require a change in the ATAP statute.

In FY 00, we project an average of 9,300 families will need Temporary Assistance each month. Of these, approximately 6,975 will be single parent families, 1,395 will be two parent families, and 930 children in relative care.

Should the Division of Public Assistance be required to prorate Temporary Assistance payments if the program were under funded, the consequences would be as follows:

- When families are unable to meet their basic needs (rent, utilities, transportation), it greatly decreases their chances of succeeding in employment or taking other steps toward self-sufficiency.
- Reducing benefits could reduce the number of hours we can legally assign individuals to community service work activities. This could adversely affect our ability to meet federal work participation rates.
- Our TANF Block Grant requires that we maintain state expenditures at 80% of our 1994 level (MOE). The Governor's FY2000 budget for ATAP includes only the amount of General Funds necessary to meet the MOE requirement. Any reduction to the General Fund amount in this program will result in significant penalties.

Adult Public Assistance (APA)

The Adult Public Assistance Program (APA) was established by statute in 1982 (AS 47.25.30 – 47.25.615) with the purpose of furnishing financial assistance to needy aged, blind and disabled persons to cover basic living expenses such as shelter, clothing and food. People who receive APA financial assistance have severe and long-term physical and mental disabilities that impose limitations on their day-to day functioning.

In FY 00, we project the APA program will serve 13,097 individuals with an average monthly benefit of \$316. This amount along with the monthly Social Security benefit maintains the individual at the poverty level.

Should the Division of Public Assistance be required to prorate APA payments if the program were under funded, the unintended consequences would be as follows:

- About 4,420 elderly, 130 blind, and 8,450 disabled poor - the state's most vulnerable citizens - could suddenly lose a significant portion of income. With few options to improve or even maintain their quality of life, these citizens tend to be heavily dependent upon state assistance to provide basic necessities. Any reduction in the APA benefit takes away from the income around which these Alaskans have structured their lives.
- A reduction in APA benefits could destabilize the living arrangements of a poor disabled or elderly person who is living independently, forcing them into institutional care at greater public expense, or into homelessness.

General Relief Assistance (GRA)

The General Relief Assistance program offers two types of assistance: General Relief cash assistance

(GRA), and General Relief Burials. Both are emergency assistance programs designed to meet the immediate and basic needs of Alaskans experiencing extreme financial problems. These basic needs include shelter, utilities, food, and clothing. In addition, limited funds for cremation or a burial of a needy person may be provided.

The GRA program is 100 percent state funded, and because funds are limited, the program is to be used as a last resort in providing basic needs to an individual or household. GRA can only be authorized when the household cannot qualify for other assistance programs. Applicants must reapply during each month of urgent need to be considered to receive assistance.

AS 47.25.130 specifies that the amount of GRA payments shall be determined by the department and may not exceed \$120 a person per calendar month. Payments are made to vendors on behalf of needy clients. The average monthly payment made to vendors for GRA related services are approximately \$350.

The General Relief Burial program provides burial assistance for indigent persons. Assistance is granted only if the family has no other resource to pay the burial costs. The maximum payment for burial expenses under GA cannot exceed \$1,250, plus the cost of a burial plot, opening and closing of the grave, or cremation. The average monthly payment for burial services is \$1,500.

Approximately 200 GRA cases are approved each month. Over 75% of these cases receive rental assistance.

The GRA program serves as the last safety net for some of Alaska's most impoverished citizens. GRA benefits already represent the minimum payment for services that most vendors will tolerate. A pro rata reduction in benefits would further discourage participation by vendors and make it difficult, if not impossible for the program to meet the emergent needs of applicants.

Medicaid

The Medicaid Program serves approximately 90,000 low income Alaskans by reimbursing health care providers for the health care services they receive. This entitlement program is a joint federal-state partnership, in that the program is operated by states under federal rules and financed by both. The federal government pays for roughly 60 percent of the cost of the program, which totals about \$400 million in FY 99. Certain groups of people, and certain medical services are required to be covered under federal law in order to participate in the Medicaid Program; other services and groups of people are optional and may be covered at state election.

Children represent over half of all Medicaid recipients, and about 29 percent of expenditures; the elderly represent 6 percent of eligibles and 12 percent of expenditures; the disabled represent 10 percent of the recipient population and 28 percent of the expenditures; home and community based waiver clients represent one percent of recipients and 12 percent of expenditures. Other adults, including parents of children and pregnant women account for the remaining expenditures.

About 6,000 medical providers are enrolled in Medicaid. Payments for services are received in the following proportions: 25 percent by hospitals, 15 percent by physicians, 11 percent by nursing homes.

10 percent by psychiatric hospitals, 9 percent by mental health clinics, 8 percent by pharmacies, and 3 percent by transportation providers. The remainder of expenditures are received by all other provider types including dentists, medical equipment suppliers, personal care attendants, laboratories and drug abuse treatment centers.

Federal rules require reimbursement of providers to be adequate enough to attract sufficient numbers of providers to secure access to health care services for program recipients. State law, regarding facility reimbursement under AS 47.07.070, requires a fair rate of compensation for reasonable costs incurred by a facility. Reimbursement for health care services is complicated, and for facilities, has significant case law history related to legal actions against the department. All reimbursement changes are done by regulation and could not be accomplished quickly without legislative authority to employ emergency regulations. Any reductions intended to be implemented through pro-rata payment reductions would be multiplied in their effect due to the length of the regulatory process; therefore significant decreases in payment has the potential to endanger meeting federal requirements for adequate reimbursement to guarantee access to care.

It is not clear how the Legislature intends HB 161 to apply to the Medicaid Program, as Medicaid is an individual entitlement to health care services; payments are not made to individuals but to health care providers who have rendered services to individuals. The only payments made that directly benefit recipients financially are for Medicare premiums, which payment is required under federal law. The division is currently purchasing premiums for more than 8,000 Alaskans; the cost for FY 99 was over \$6.2 million dollars, and because the senior population is experiencing rapid growth, premium costs are likewise increasing. State law, at AS 47.07.035, already directs the department in how to manage the program should funding be insufficient to cover program costs; this law lists optional services and groups of people to be eliminated from the program in a priority order. How this statute would interrelate to the provisions of HB 161 is ambiguous, as AS 47.07.035 and HB 161 give conflicting direction (eliminating services and eligible groups vs. reducing payments).

Chronic Acute Medical Assistance (CAMA)

The CAMA program covers between 800 and 900 extremely poor and sick Alaskans each year; in order to qualify for coverage, a person must have income under \$300 per month, resources of less than \$500, and experience a significant chronic or acute illness such as cancer, a seizure disorder, diabetes, or other terminal condition. Recipients must apply monthly for eligibility, and the covered services are extremely limited. CAMA reimbursement generally follows Medicaid provider reimbursement rules, except that hospitals are already reimbursed at 28 percent of the Medicaid rate due to limited funding. Even though the CAMA program is totally general fund dollars, savings would be limited by any payment reductions due to the small size of the budget. Payment reductions for CAMA providers could effect the availability of care for program recipients, as it could for Medicaid.

Foster Care

As of this month, the children in foster care—for whom this care is required—number nearly 1,200 full time equivalents. The Department is required by statute to take care of these children in its custody:

AS 47.14.100. Powers and duties of department over care of a child. (a) Subject to (c), (f), (I), and (j) of this section, the department shall arrange for the care of every child committed to

its custody by placing the child in a foster home or in the care of an agency or institution providing care for children inside or outside the state.

When a child who has been physically abused, neglected, or sexual abused cannot be maintained safely in the child's own home and must be placed in out-of-home care, placement in a foster home is always the first preference. The foster care base rate component provides payments to foster parents on behalf of these children. The rate paid is established by the regulations necessary for the implementation of state law. Consistency in the amount paid for the care of a child is an essential factor in ensuring the availability of foster homes, particularly at a time when the number of children in state custody is growing. In order to maintain a consistent level of support for foster children, the standard daily rate is specified in 7 AAC 53.030. HB 161 would, if passed into law, supercede this regulation and undoubtedly result in rate reductions. (A provision of the regulation already allows for this given a funding shortage, but it does not require it.)

The ultimate result of a rate reduction in foster care payments would be counter to that intended by HB161. Because fewer foster homes would be available for the children who will still be taken into state custody, more children will be placed in much more expensive institutional care. Therefore, state expenditures would actually rise. The only alternative would be for the Department to leave children in unsafe situations—a predicament that no one desires, and one we have been working very hard to avoid.

Subsidized Adoption and Guardianship

The adoption and guardianship program serves children in the custody of the Department who cannot return to their biological parents by providing permanent parents through adoption or guardianship. Adoptions and legal guardianships can be subsidized for special needs children who could not be adopted without assistance to meet the child's special needs.

The increase of children entering the child protection system has a direct impact on the number of children ultimately requiring alternate permanent homes because they are not able to return to their families. Not only are the number of children in need of adoption increasing, but the number of children with emotional disorders and the severity of the disorders is also increasing, resulting in an increase in the need to provide adoption or guardianship subsidies. Families are not able to assume the responsibility of providing complete and permanent care for these disturbed children without financial support. The number of children receiving adoption subsidies is projected to be 1,252 by June of this year.

Our adoption subsidy program has federal requirements that 1) there won't be a means test, 2) that subsidy amounts will be determined on both child's and family's needs, and 3) that no change in subsidy may occur without concurrence of the adoptive parent with whom the agreement has been negotiated. In order to receive federal funds under Parts IV-B and IV-E of the Social Security Act (currently in excess of \$12 M), the department must meet the requirements of those sections of that Act:

- 42 USCS 671 Requisite features of State plan. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which----
- (1) provides for foster care maintenance payments in accordance with 42 USCS 672 and for adoption assistance in accordance with 42 USCS 673.

42 USCS 673. Adoption assistance program (a)(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements with the adoptive parents of children with special needs.

(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the state—

(1) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child.....

(3) The amount of the payments to be made in any case.....shall be determined through the agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents, depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment.....exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

Ultimately, the passage of HB161 into law would place us in the position of incurring additional expenditures for the care of foster children, greater difficulty in recruiting adoptive parents, degradation in the quality of care provided to children in state custody because of disruptions, and a potential loss of \$12,000.0 in federal revenue.

In summary, we oppose this bill for many reasons. It could have very real and devastating impact on Alaskans who depend on these payments. Its passage would result in a complicated process of changing regulations for all of the major programs that we administer—perhaps several times during a year—a costly and disruptive situation for all concerned. It would place us in the position of losing substantial federal revenue because of our inability to meet federal requirements. The irregularity of payments throughout the year and among individuals with like eligibility and like needs would result in legal challenges on behalf of those individuals and a variety of groups.

Thank you for your attention.

Sincerely,



Karen Perdue
Commissioner

cc: Representative Con Bunde, Capitol Building, Room 501
Representative Gary Davis, Capitol Building, Room 513
Representative Alan Austerman, Capitol Building, Room 434
Representative Richard Foster, Capitol Building, Room 410
Representative Ben Grussendorf, Capitol Building, Room 415

Representative Vic Kohring, Capitol Building, Room 421
Representative Bill Williams, Capitol Building, Room 502
Representative John Davies, Capitol Building, Room 422
Representative Carl Moses, Capitol Building, Room 500
Bryan Butcher, Staff, Representative Therriault, Capitol Building, Room 511
Elmer Lindstrom, Special Assistant
Janet Clarke, Director, Administrative Services
Lisa Emerson, Budget Analyst, Administrative Services

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 25, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/12/99

The FINANCE Committee considered:

HB 161

HOUSE BILL NO. 161

REDUCTIONS IN BENEFIT PROGRAMS

"An Act relating to reduction in payments to individuals under certain benefit programs; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 161 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) of of gov. zero fiscal note(s) of of gov.

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Therriault</i>	Therriault			X	
<i>Gene Mulder</i>	Mulder	/			
<i>Norm Bunde</i>	Bunde				
<i>Wm Kohring</i>	Kohring	X			
<i>Alvin Lustig</i>	Austerman			X	
<i>Col G. J. Jones</i>	J. DAVIS				X
<i>Ben Grossendorf</i>	Grossendorf			X	
<i>Clayton Moses</i>	Moses			X	
<i>John G. Davis</i>	G. DAVIS			X	
<i>William Williams</i>	Williams			X	
<i>Tom Form</i>	Form			X	

10 CHAIR'S SIGNATURE

Gene Therriault
Therriault

Gene Mulder
Mulder

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 161

Revision Date/Time (Note if correction) _____ Dept. Affected All state agencies
 Title An Act relating to payments to individuals BRU _____
 Component _____
 Sponsor House Finance Committee
 Requester House Finance Committee Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would require state agencies to prorate payments to individuals receiving state benefits if an appropriation is not sufficient to fully fund the program.

The fiscal impact is shown as zero because the bill would not change state agency costs, but instead would impact Alaska residents if the appropriation level fell short of the amount needed to fully fund the benefit.

For most individual benefits, such as the Longevity Bonus, program costs are based on projections updated in the spring before the beginning of the fiscal year. It is not possible to know with certainty at that time whether appropriated funds are sufficient to fully fund the program. Significant reductions may have to be made in the final months of the fiscal year to remain within the appropriation amount.

Prepared by Annalee McConnell, Director *Annalee McConnell* Phone 465-4660
 Division Office of Management and Budget *D. Ramseur* Date/Time 3/29/99 12:00 AM
 Approved by Commissioner David Ramseur, Deputy Chief of Staff Date _____
 Agency Office of the Governor

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March 30, 1999

By hand delivery

Hon. Eldon Mulder
Co-chair, Finance Committee
Alaska Legislature
Capitol Room 507
Juneau, Alaska

Gene Therriault
Co-chair, Finance Committee
Alaska Legislature
Capitol Room 511
Juneau, Alaska

JUNEAU

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

Re: **HB 161: Limitations on benefits due to shortfall in appropriations**

Dear Reps. Mulder and Therriault:

Please accept these comments on HB 161, which is a preliminary legal analysis of some implications of the bill.

Of immediate concern are questions of validity under the Alaska Constitution or federal law. I will leave to others, most importantly the Department of Law, to analyze any constitutional questions. Because our state is in partnership with the federal government in administration of several benefit programs, federal legal questions are immediately raised by this bill and should be answered to your satisfaction before you act to adopt this measure.¹

One program that is of great importance to many people with disabilities is Medicaid. Under this program, Alaska contributes 40% and the federal government contributes 60% of the cost of medical care for needy individuals. The value of this program to people with disabilities cannot be overstated. Medicaid provides the medications, services and devices that for many Alaskans is essential to their survival and well-being.

¹ It would lessen the legal questions regarding the bill if a definition of "benefit program" were included.

MEMBER OF THE
NATIONAL
ASSOCIATION OF
PROTECTION &
ADVOCACY
SYSTEMS

Hon. Eldon Mulder and Hon. Gene Therriault, co-chairs, House Finance Committee, Alaska
Legislature

Re: HB 161: Limitations on benefits due to shortfall in appropriations

March 30, 1999

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As the Alaska Supreme Court has noted, however, when Alaska chooses to participate in the Medicaid program, it must comply with federal statutory and regulatory requirements.² My concern is that HB 161, to the extent it is intended to require reductions in non-cash benefit programs, may unintentionally cause violations of federal law. With respect to Medicaid law, in my opinion the bill in its present form does raise potential violations of two principles of Medicaid law.

Obligation to provide coverage sufficient to achieve medical purpose

A state choosing to provide Medicaid must provide coverage to a group of beneficiaries described as the "mandatory categorically needy."³ Also, there is a list of mandatory medical services which must be covered.⁴ The state must provide enough funds from state sources to provide coverage that is "sufficient in amount, duration, and scope to reasonably achieve [the] purpose [of the medical service]."⁵

HB 161, if intended to compel curtailment of Medicaid coverage, appears to violate the requirement that Medicaid coverage be sufficient to accomplish the purpose of mandatory services, by limiting coverage based on a shortage of state funds, rather than based on medical necessity.

A case that is an example of the violation of the sufficiency principle was presented in Illinois in the mid-1980s, when Illinois was under a similar fiscal crisis. The Illinois Department of Public Aid, faced with a budget appropriation from the Illinois legislature that was inadequate to fund the state's plan, proposed a regulation that would have not paid hospitals that treated Medicaid-eligible patients when an appropriation was insufficient to cover actual hospital expenses. It was demonstrated that this regulation would have caused the closure of hospitals or otherwise severely curtailed medical services to the Medicaid-eligible population. In finding that this regulation violated Medicaid law, an Illinois federal court noted that:

² *State, Dep't of Health & Soc. Serv. v. Hope Cottages, Inc.*, 863 P.2d 246, 248 (Alaska 1993).

³ 42 U.S.C. § 1396a(a)(10)(A); *see also* A.S. 47.07.020(a).

⁴ 42 U.S.C. §§ 1396a(a)(10)(A); 1396d(a).

⁵ 42 C.F.R. § 440.230(b).

Hon. Eldon Mulder and Hon. Gene Therriault, co-chairs, House Finance Committee, Alaska
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“ ‘If a state could evade the requirements of the [Medicaid] Act simply by failing to appropriate sufficient funds to meet them, it could rewrite congressionally imposed standards at will.’ * * * [I]n the face of inadequate Medicaid appropriations a state has only two options: ‘cancel the plan . . . or provide the money to carry out the plan.’ ”⁶

It is difficult, in the short term, for Alaska to withdraw from the Medicaid program, i.e., to “cancel” the Medicaid plan. For example, Medicaid is the primary third-party payer of long-term care services in Alaska.⁷ The budgets and design of many Alaska health care programs and facilities are based on projections of Medicaid funding that cannot be eliminated or significantly reduced without drastic community impact – and without exposure to a claim that the state has violated the federal mandate to provide sufficiency of Medicaid coverage.

Equality in amount, duration and scope of services

In addition to the mandatory categorically needy, a state may elect to provide Medicaid coverage to individuals referred to as the “optional categorically needy.”⁸ Alaska has opted to provide Medicaid coverage to some of the optional categorically needy through AS 47.07.020(b). Once a state has elected to provide Medicaid to one or more categories of the optional categorically needy, the Medicaid provided to the *mandatory* groups must be at least equal to the Medicaid provided to the *optional* groups.⁹ In addition, the Medicaid provided to eligible people *within the respective categories* must be equal.¹⁰

The bill appears to violate the principle of equality of service within eligibility categories by suggesting that services will not be covered at times late in the fiscal year, when budget appropriations may fall short of actual expenditures. The bill seems to compel the agency administering Medicaid to offer lesser benefits to an individual applying later in the fiscal year if an appropriation falls short of actual expenditures.

⁶ *Illinois Hosp. Ass'n v. Illinois Dep't of Public Aid*, 576 F.Supp. 360, 368 (N.D.Ill. 1983)(citations omitted).

⁷ Alaska Legislature, LONG-TERM CARE TASK FORCE: FINAL REPORT at 42 (Jan. 1999).

⁸ 42 U.S.C. § 1396a(a)(10)(A)(ii).

⁹ 42 U.S.C. § 1396a(a)(10)(B)(ii); 42 C.F.R. § 440.240(a).

¹⁰ 42 U.S.C. § 1396a(a)(10)(B)(i); 42 C.F.R. § 440.240(b).

Hon. Eldon Mulder and Hon. Gene Therriault, co-chairs, House Finance Committee, Alaska
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Conclusion

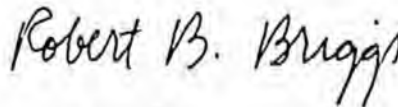
There may be other ways that the bill may raise potential conflict with Medicaid statutes and regulations, as well as other federal laws, that I have not analyzed in the brief time since the bill's introduction. I will continue to study the bill and provide other input to your staffs and any future hearings that may be scheduled.

To the extent the bill is intended to limit only cash benefit programs, I trust that you will have heard from others the importance of certain cash benefit programs to persons with disabilities. I believe it is largely your prerogative¹¹ as policy makers for Alaska to decide whether to reduce or eliminate cash benefit programs.

However, from my personal experience representing people with disabilities, I believe that elimination or significantly reduced funding of a cash benefit program such as the Adult Public Assistance will have an immediate effect on our communities, with an attendant strain on local and non-governmental resources, as well as large human costs borne significantly by persons with disabilities.

For these reasons, I suggest that you not adopt HB 161, and that you consider other approaches to balancing the state's income and expenditures.

Very truly yours,



Robert B. Briggs
Staff attorney

¹¹ There are some federal limits that govern the reduction of state supplemental benefit programs, but I am not sure at this writing whether and to what extent they are implicated by HB 161.

**Hon. Eldon Mulder and Hon. Gene Therriault, co-chairs, House Finance Committee, Alaska
Legislature**

Re: HB 161: Limitations on benefits due to shortfall in appropriations

March 30, 1999

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cc:

Members of the House Finance Committee

Karen Perdue, Commissioner, DHSS

Robert Labbe, director, DHSS, Div. of Medical Assistance

James Nordlund, director, DHSS, Div. of Public Assistance

Bruce Botelho, Attorney General

David Maltman, Governor's Council on Disabilities and Special Education

Walter Majoros, Alaska Mental Health Board

Anne Schultz, Governor's Advisory Board on Alcoholism and Drug Abuse

Patrick Reinhart, State Independent Living Council

Pat Clasby, Alaska State Hospital and Nursing Home Association

Rick Tessandore, exec. dir., Disability Law Center of Alaska, Inc.

FAX 456-3346



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Finance Com.

Committee on House Bill 161

Committee Name

Dated 3-31-99

Bill / Subject

I am Cheryl Wheat, a mental health consumer from Fbks, Ak. I am currently receiving social security and adult public asst. along w/ medicaid. As I understand this bill, you want to cut benefits on a month to month basis when your coffers don't have enough dollars to fund things. All disabled people need one thing - STABILITY. If you take a big bite of my benefits & I can't see my doctor as often as necessary or get necessary meds to keep me functioning, I will have to go to an institution. As it stands, I have a delicate hold on my mental health. This bill would make my life like a crap shoot. Month to month I would not know what to expect. Have you thought of having the disabled pay \$5.00 per prescription instead of \$10.00? What about \$10 per doctor visit? I could manage to pay that. I realize Ak. state does not have the funds to pay everything 100%. I DO NOT advocate tapping the permanent fund. However, if it was voted by you to make me live on my PFD for three months w/ \$10 dollars from public asst for that time, I would do that. I don't like it but it's a viable alternative. Please give great consideration before you vote on this bill. You too, could be disabled one day & have to try to live on a below poverty level income. Thanks for your time!

SIGNED:

Cheryl Wheat
Testifier

NAMI Fbks & myself as a mental health consumer
Representing

PO Bx 81009 Fbks 99708
Address / Phone Number

(457-7703)



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Finance
 Committee on HB 161 Dated 3-31-99
Committee Name
Bill / Subject

Have you considered the consequences of this bill? It is one of the worst pieces of legislation I've seen in a long time. People with disabilities already live on a below poverty income and need it all for essentials such as food, rent and medical bills. There is no room for cutting their personal budgets. People with mental illness rely on their meds to maintain their stability, remain out of the hospital & successfully live in the community. Without medical care in the community, more expensive hospitalization will be required. Alaska is one of the richest states in the union. Why do we need to balance our budget on the backs of our elderly and disabled citizens? Let us look at alternatives that won't harm our poorest citizens. I would rather see Alaska cap our permanent fund checks & begin to use P.F. income to ~~the~~ maintain state government. P.F. income should not be used to increase state infrastructure ultimately requiring even more money.

SIGNED: _____

Testifier Jeanette Grasto

Representing NAMI of Fairbanks & NAMI Alaska

Address / Phone Number 1369 Ballaine Rd. Fhks, AK 99709 455-6263



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HOUSE FINANCE
 Committee on H.B. #161/BENEFIT REDUCTIONS Committee Name
Bill / Subject Dated 3/31/99

CUTTING BENEFITS TO PEOPLE WHO ARE
 BARELY MAINTAINING UNDER PRESENT
 PROGRAMS CAN TURN THEM INTO
 CRISIS & EMERGENCY CASES THAT
 ARE MUCH COSTLIER BOTH IN TERMS
 OF RESOURCES & LIVES

SIGNED: AL AARON
 Testifier
NAMI OF FAIRBANKS
 Representing
P.O. BOX 74132 FAIRBANKS 99707
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Finance
 Committee on House Bill #161 Committee Name
Bill / Subject Dated 3-31-99

Please be advised that I feel House Bill H-161
 is an ^(immoral) immoral bill because it reduces the
 already impoverished resources of the very needy,
 disabled, old & poor. There must be other resources to
 draw from than such a proposal as this. As a
 member of NAMH of Fairbanks, I am deeply concerned
 with advocating for those who have no voice otherwise.
 Please re-think and ^(re-work) discard the wrong foundation
 of this Bill H-161.

SIGNED: Katherine A. Cross-Das (Katherine A. Cross-Das)
 Testifier office of NAMH of Fairbanks
NAMH of Fairbanks
 Representing
456-4704 fax # 456-3593
 Address / Phone Number



Alaska State Legislature

Please enter into the record my testimony to the Finance
 committee name
 committee on HB 40, dated 3-31-99
 bill/subject

For three years running, the idea of merging Departments or eliminating Departments has come up. In that time, nothing has changed to make it a good idea. The current plan of merging CRA with Commerce is seriously flawed -- again because part of the plan speaks of moving Child Care Programs to HESS and Head Start to Education.

Start up costs at \$700,000 seem excessive when the word is that "no programs will be sacrificed." Change for the sake of change should never happen!

CRA has been doing child care programs for 24 years. CRA coordinates well with other agencies. Clients get better service from CRA as a smaller agency. An audit conducted in November, 1994 addressing the issue of combining Child Care Assistance with DPA showed that due to the delivery system set up at CRA (Local Administrators and Grantees), it would be much better for CRA to continue its administration of Child Care programs.

Not only should CRA continue administering with child care programs, it should also be administering the child care assistance program at DPA called PASS 1. The agency with the most experience and best "track record" should be doing the job.

Signed: *Joan Straatmeyer*
 Testifier

Representing (Optional)
HCOL Box 6446, Palmer, AK 99645
 Address
373-1456
 Phone No.

My name is Margo Waring. I am staff to the Alaska Mental Health Board and representing the Board's concerns at this hearing.

The Alaska Mental Health Board is very concerned about the implications of HB 161 for people with mental illnesses. Reduction in funding levels for supports for people with mental illnesses jeopardizes their well being in several ways. ~~First~~, and most importantly, is that many people with severe and chronic mental illnesses rely on Medicaid to purchase their very costly psychotropic medications. These new generation medications make it possible for people with severe psychiatric disabilities to live and work in their communities. Loss of support for this program could well mean a return to increases, and more expensive reliance, on psychiatric hospitals for medical care.

by Medicaid already low income levels.

~~Secondly~~, Alaska has been reducing the capacity of Alaska Psychiatric Institute, the state psychiatric hospital, for several years, in favor of community based care, as stated in Alaska Statutes. Community care requires that people have the basic income supports to live in community rather than in institutions. Food, clothing and shelter require consistent income supports. Reduction in those supports is a burden for people who live close to the margin and have no discretionary income.

6000 low income disabled Alaskans use APA. Many are chronically & severely ill.
On a practical level, formula basing for programs, which this bill seeks to eliminate, assures that enrollment increases and decreases do not jeopardize those already enrolled without relying on the inexact science of prediction of numbers of people to be served.

The Alaska Mental Health Board supports the continuation of benefit programs that assure predictable and consistent and sufficient ~~benefits~~ *supports* program supports for people with disabilities.

Thank you.

~~NOT Medicaid~~

The level of support for disabled people is minimal - poverty level. There are no discret. income.

INTERNET ADDRESS:
acoa@admin.state.ak.us



P.O. BOX 110209
JUNEAU, AK 99811-0209
(907) 465-3250
FAX: 465-4716

Alaska Commission on Aging

Resolution 99-8

***In opposition to HB161/SB 126:
An act relating to reductions in benefit programs***

Whereas Alaskans of all ages affected by disabilities and long-term illnesses rely upon Medicaid for their survival which is dependent upon their receiving essential long-term care (medications, services and devices); and

Whereas Alaska's Temporary Assistance Program provides the financial foundation upon which thousands of Alaskans and their families rely for assistance as they move from welfare to self-sufficiency, and in so doing over time reduce Alaska's expenditures for welfare; and

Whereas the Adult Public Assistance and Chronic Acute Medical Assistance programs now provide limited assistance to the most vulnerable Alaskans who struggle to survive financially and/or medically, and

Whereas those Alaskans of all ages who must rely on such programs would lose any ability to predict their ability to survive under the provisions of HB161/SB 126;

Now therefore the Alaska Commission on Aging expresses its strong opposition to HB161/SB 126.

Adopted this 7th day of April, 1999.

A handwritten signature in cursive script that reads "Alaire E. Stanton".

Alaire Stanton
Chair

REPRESENTATIVE
GENE THERRIault
Co-Chair
(907) 465-4797
Fax: (907) 465-3884

INTERIM ADDRESS
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271

Alaska State Legislature
House Finance Committee



State Capitol, Juneau, Alaska 99801-1182

REPRESENTATIVE
ELDON MULDER
Co-Chair
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Fax: (907) 465-3518

INTERIM ADDRESS
716 W. 4th Ave., Suite 310
Anchorage, Alaska 99501
(907) 269-0265
Fax: (907) 269-0264

HOUSE BILL 161

Sponsor Statement

House Bill 161 allows program administrators to reduce payments in benefit programs to match the appropriated level of funding. It allows the legislature and administration to deal with reductions in revenue and increases in recipients in a simple and practical manner.

The current circumstance requires that payments be made at a prescribed level without reference to appropriation. If the enrollment exceeds affordable levels, managers would be allowed to manage within the appropriated resources. The only current option is to request a supplemental appropriation or shut a program down in the later months of the fiscal year.

HB 161 provides a reasonable budgetary tool to the administration and legislature. It will help deal with our fiscal realities.

1-LS0687AG
Cook
4/7/99

CS FOR HOUSE BILL NO. 161(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): **HOUSE FINANCE COMMITTEE**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to reduction in payments to individuals under certain benefit**
2 **programs; and providing for an effective date."**

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

4 *** Section 1. AS 37.07 080(d) is amended to read:**

5 (d) A state agency

6 (1) shall, if an appropriation made for a benefit program is not
7 sufficient to fully fund all payments to individuals under that program, reduce the
8 amount of payments to eligible individuals on a pro rata basis; this paragraph
9 does not apply to loan programs, state employee retirement benefit programs, or
10 programs for which other provisions of law address underfunding; and

11 (2) may not increase the salaries of its employees, employ additional
12 employees, or expend money or incur obligations except in accordance with law and
13 properly approved operations plan.

14 *** Sec. 2. This Act takes effect July 1, 1999.**

HB

161

SFIN

FILE

5/17/99

SENATE FINANCE COMMITTEE REPORT

DATE: 4/16/99

FURTHER:

DATE TURNED
IN TO OFFICE:

5/17/99

Finance Committee considered

CS FOR HOUSE BILL NO. 161(FIN)(efd fld)

"An Act relating to reduction in payments to individuals under certain benefit programs."

and recommends:

- be replaced with 5 CS CS HB 161 (FIN)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title
- House Bill:
- same title
- technical title
- new: SCR" _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John F. Cill...</i>	<input checked="" type="checkbox"/>	<i>Al Adams</i>		<input checked="" type="checkbox"/>	
<i>Linda...</i>	<input checked="" type="checkbox"/>				
<i>Walter...</i>	<input checked="" type="checkbox"/>				
<i>Dr. D. Pluman</i>	<input checked="" type="checkbox"/>				
<i>W. ...</i>	<input checked="" type="checkbox"/>				
Co-Chair: <i>...</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>...</i>	<input checked="" type="checkbox"/>	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<i>All State Agencies</i>	<i>4/21/99</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No: 1
 Bill Version: 5/17/99 CSHB 161 (FIN)
 (H) Publish Date: 4/13/99

**STATE OF ALASKA
 1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected All state agencies
 Title An Act relating to payments to individuals BRU _____
 Component _____
 Sponsor House Finance Committee
 Requester House Finance Committee Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would require state agencies to prorate payments to individuals receiving state benefits if an appropriation is not sufficient to fully fund the program.

The fiscal impact is shown as zero because the bill would not change state agency costs, but instead would impact Alaska residents if the appropriation level fell short of the amount needed to fully fund the benefit.

For most individual benefits, such as the Longevity Bonus, program costs are based on projections updated in the spring before the beginning of the fiscal year. It is not possible to know with certainty at that time whether appropriated funds are sufficient to fully fund the program. Significant reductions may have to be made in the final months of the fiscal year to remain within the appropriation amount.

Prepared by Annalee McConnell, Director *Annalee McConnell* Phone 465-4660
 Division Office of Management and Budget *J. Ramseur* Date/Time 3/29/99 12:00 AM
 Approved by Commissioner David Ramseur, Deputy Chief of Staff Date _____
 Agency Office of the Governor

COMMITTEE COPY

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SUBJECT: _____
DATE: _____

	<u>YEA</u>	<u>NAY</u>
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR WILKEN		
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:	_____	_____

SUBJECT: _____
DATE: _____

	<u>YEA</u>	<u>NAY</u>
SENATOR WILKEN		
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:	_____	_____

SUBJECT: SCS CS HB 161 (FIN)
DATE: 5/16/99 rept. out

	<u>YEA</u>	<u>NAY</u>
SENATOR LEMAN		
SENATOR WILKEN		
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR DONLEY		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:	_____	_____

8 1

SUBJECT: _____
DATE: _____

	<u>YEA</u>	<u>NAY</u>
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR WILKEN		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:	_____	_____

SENATE FINANCE
COMMITTEE # 1
Amendment Number: _____
Bill Number: CSHB 161(FIN)(efd)(fki) I-LS0687GA.1
Sponsor: Parnell Date: 5/16/99 Cook ✓
Logged In By: Asoltani 5/5/99

A M E N D M E N T

OFFERED IN THE SENATE

moved BY SENATOR PARNELL
w/o objection, ADOPTED

TO: CSHB 161(FIN)(efd fld)

||

- 1 Page 1, line ~~9~~, following "to":
- 2 Insert "payments under AS 25.23.190 - 25.23.240."

1-LS0687H

Cook

4/27/99

5/16
moved by Parnell
w/o obj. ADOPTED work draft

SENATE CS FOR CS FOR HOUSE BILL NO. 161()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to reduction in payments to individuals under certain benefit
2 programs."

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

4 * Section 1. AS 37.07.080(d) is amended to read:

5 (d) A state agency

6 (1) shall, if an appropriation made for a benefit program is not
7 sufficient to fully fund all payments to individuals under that program, reduce the
8 amount of payments to eligible individuals on a pro rata basis; in making the pro
9 rata reductions required by this paragraph, the agency may not consider any
10 potential supplemental appropriation until the appropriation has been enacted;
11 this paragraph does not apply to loan programs, state employee retirement benefit
12 programs, or programs for which other provisions of law address underfunding;
13 and

14 (2) may not increase the salaries of its employees, employ additional

1
2

employees, or expend money or incur obligations except in accordance with law and properly approved operations plan.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

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

April 6, 1999

RECEIVED
APR 07 1999
Office of the Commissioner
DHSS - Juneau

The Honorable Eldon Mulder
The Honorable Gene Therriault
House Finance Committee, Co-Chair
State Capitol, Room 507 and 511
Juneau, AK 99801-1182

Dear Representatives Mulder and Therriault:

During the March 31 hearing on HB161, a question arose regarding TANF penalties. Our response follows.

Explain the penalty for the State not meeting the required Temporary Assistance for Needy Families (TANF) Maintenance of Effort.

The State faces severe penalties for spending less than the required TANF Maintenance of Effort (MOE) that will result in a significant loss of federal funds and a requirement to increase state general fund expenditures as explained below.

The Minimum TANF MOE requirement is 80 percent of FFY historic state expenditures. That amount is \$50,205,000.

Penalty for Not Meeting the State MOE Requirement for TANF

1. The federal TANF block grant is reduced dollar-for-dollar by the amount a State fails to meet the MOE;

and

2. The TANF is reduced by the amount of the U.S. Department of Labor Welfare-to-Work formula grant administered by DCRA;

and

3. A penalty of no more than two percent is assessed against the adjusted federal TANF grant;

and

4. The State must increase state spending to make up for the TANF block grant reductions or face possible withholding of the entire grant.

Example of Penalty for Not Meeting State MOE*(Based on GF \$3 million below required amount.)*

	Year 1	Year 2
1. Dollar-for-dollar below TANF MOE	\$3,000.0	\$3,000.0
2. Reduced by WtW formula grant	2,700.0	2,700.0
3. 2% of adjusted TANF	0.0	1,260.0
4. Amount failed to replace from Year 1	0.0	3,000.0
	<hr/>	<hr/>
Total FY Federal TANF Reduction	\$5,700.0	\$9,960.0

A violation of the federally required MOE would be a tremendous setback to the success of welfare reform. In FY95, the base budget for this administration, \$121 million was spent in total funds on cash benefits for Alaska Temporary Assistance Program recipients. The proposed budget for FY2000 is \$78 million. Of the \$43 million savings, we have reduced the general fund by \$15.1 million and supplanted an additional \$8.7 million in child care funds for a total GF savings of \$24 million. We are at the MOE floor. No state has violated the required MOE.

Since many more recipients are working, the average benefit payment has come down as well. In FY95 the average benefit amount was \$817. The estimated amount for FY99 is \$685, a 16% reduction.

Cuts to the TANF block grant and loss of the WtW formula grant would mean severe reductions to the community service providers identified on the enclosed page.

If you have questions or require additional clarification regarding this information, please contact Janet Clarke at 465-1630.

Sincerely,



Karen Perdue
Commissioner

Enclosure

cc: Representative Con Bunde, Capitol Building, Room 501
 Representative Gary Davis, Capitol Building, Room 513
 Representative Alan Austerman, Capitol Building, Room 434
 Representative Richard Foster, Capitol Building, Room 410
 Representative Ben Grussendorf, Capitol Building, Room 415

Representative Vic Kohring, Capitol Building, Room 421
Representative Bill Williams, Capitol Building, Room 502
Representative John Davies, Capitol Building, Room 422
Representative Carl Moses, Capitol Building, Room 500
Bryan Butcher, Staff, Representative Therriault, Capitol Building, Room 511
Elmer Lindstrom, Special Assistant
Janet Clarke, Director, Administrative Services
Lisa Emerson, Budget Analyst, Administrative Services
Jim Nordlund, Director, Public Assistance
Randy Moore, Administrative Manager, Public Assistance
Verne Skagerberg, Budget Analyst, Administrative Services

DPA FY99 GRANTS/CONTRANTS / RSAs
Using TANF and/or Welfare to Work Funds

Organization	Service	Location
Nine Star	WS, ABE	Anchorage
Cook Inlet Tribal Council	WS, RCM	Anchorage
University of Alaska, Anchorage	WS, CWE, PECM	Anchorage
Job Ready Inc.	PECM	Anchorage
Child Care Connection	PPT	Anchorage
Human Resources	PECM, WS ABE	Mat-Su
Mat-Su Borough	PECM	Mat-Su

Organization	Service	Location
Hoonah Indian Association	PPT	Hoonah
State Private Industry Council	PECM	Inter-SE
Southeast Regional Resource Center	WS, ABE,	Juneau
Tlingit & Haida	CCM	Inter-SE
Tlingit & Haida	RCM	Juneau
NAEYC-SEA	CC	Juneau
Catholic Community Services	PPT	Juneau
State Private Industry Council	PECM	Ketchikan
Southeast Regional Resource Center	WS, ABE	Ketchikan
Mettakatta Indian Community	CCM, PPT	Mettakatta
Southeast Regional Resource Center	CCM	Prince of Wales
Center for Community	CCM	Sitka

Organization	Service	Location
Adult Learning Programs of Alaska	WS, ABE	Fairbanks
Fairbanks Native Assoc.	PPT, CC	Fairbanks
Tanana Chiefs	ASAP	Northern and Fairbanks
State Private Industry Council	CCM	Northern and Fairbanks

Organization	Service	Location
Aleutian/Pribilof Island Association	CCM	Aleutian/Pribilof Islands
Native Village of Barrow	PPT	Barrow
Association of Village Council Presidents	CCM	Bethel
Department of Labor	CCM	Copper River
Department of Labor	CCM	Homer
Mar.ilaq Manpower	CCM	Kotzebue
State Private Industry Council	CCM	Kodiak
State Private Industry Council	PECM	Kenai
Kawerak, Inc.	CCM	Nome
Nome Community Center	PPT	Nome
Alaska Vocational Technical Center	CCM	Seward

CCM – Comprehensive Case Management
 CC – Child Care
 WS – Work Search
 ABE – Adult Basic Education
 PPT – Pregnant and Parenting Teens

PECM – Post Employment Case Management
 RCM – Regular Case Management
 CWE – Community Work Experience
 ASSP – Athabascan Self-Sufficiency Partnership

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HO.
JUNEAU, ALASKA 99811-0300
PHONE (907) 465-3600
FAX: (907) 465-6735 2520

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 13, 1999

Hon. Eldon Mulder, Co-Chair
Hon. Gene Therriault, Co-Chair
House Finance Committee
House of Representatives
State Capitol
Juneau, Alaska 99801

Re: CSHB 161(FIN) - Proration of benefits;
legal issues encountered

Dear Representatives Mulder and Therriault:

This letter is intended to give you fair notice of some of the issues and problems that the Department of Law encountered in our review of CSHB 161(FIN) which was recently reported out of the House Finance Committee. It did not appear that the Finance Committee would take testimony on the committee substitute at that time so this letter is written to provide a record of some the points the House of Representative should consider when it deliberates on passage of this bill.

The most serious legal defect with the bill is the vagueness of its terms and the resulting potential for liability exposure of the state treasury. A striking deficiency in the bill is the lack of a definition of the term "benefit program." We understand that, at a minimum, the bill is intended to include most of the so-called "formula or entitlement programs." For reasons explained below, it would be highly desirable to add a definition of this term that would clearly identify the programs that it is intended to affect in order to remedy the vagueness of the bill.

Under entitlement benefit programs, if the legislature makes an appropriation to finance benefits, the recipient gains a right to payment of the benefit to the full extent provided by law. This right is considered vested and can be taken away only through a procedure that accords due process of law. Under the provisions of CSHB 161, the ability to prorate benefit payments is invoked when an appropriation is "not sufficient to fully fund all payments to individuals under that program." During the final committee hearing on the bill, the co-chairs of the committee stated for the record that, on a case-by-case basis, the legislature may indicate that a "not sufficiently funded benefit program" may nonetheless make grants at statutorily mandated

ADULT PUBLIC ASSISTANCE FACT SHEET

Prepared by Division of Public Assistance 4/21/99

Eligibility:

- Disabled, blind or elderly individual at least age 18.
- Income of less than \$929 per month, and assets of no more than \$2000 for an individual, \$3000 for a couple.

Benefit:

- The maximum benefit for most individuals is \$362 per month; average payment is \$316. Combined with social security benefits, an individual's maximum monthly income is \$862 per month.

Number of Alaskan beneficiaries:

- 12,523

City of Residence:

Cities	Number	Percent Caseload
Anchorage	4977	40%
Fairbanks/North Pole:	1334	11%
Juneau:	546	4%
Ketchikan	336	3%
Sitka, Wrangell, Petersburg	233	2%
Southeast Islands	249	2%
Kodiak	202	2%
Kenai Peninsula	808	6%
Mat-Su Valley	1249	9%
Prince William Sound	207	2%
Rural Interior	640	5%
Northwest	266	2%
Nome, Lower Yukon	631	5%
Bethel, Dillingham	723	6%
Aleutians	122	1%
	12,523	

Age Range:

18 - 25	676	5.4%
26 - 35	1403	11.2%
36 - 45	2279	18.2%
46 - 55	1941	15.5%
56 - 65	1891	15.1%
66 - 75	2630	21%
76 - 85	1352	10.8%
86 - 95	326	2.6%
96+	25	0.2%

Major Diagnosis:

Mental disorder	33%
Developmental disability	15%
Musculoskeletal system	11%
Nervous system and sense organs	9%
Injury	4%

Payment Reduction Scenarios

Total Income: \$862

Estimated Expenses:

Rent	\$300
Food	\$160
Utilities	\$150
Basic living needs (transportation, clothing, personal care)	\$125
TOTAL	\$735

Amount left for uncovered medical supplies & expenses, eyeglasses, dental, over-the-counter drugs, emergencies, etc. \$127

How HB 161 could affect APA recipients:

5% Reduction

Original amount for other expenses \$127
 Less 5% Reduction: -\$16
 New amount left for other expenses \$111

10% Reduction

Original amount for other expenses \$127
 Less 10% Reduction -\$32
 New amount left for other expenses \$95

27.5% Reduction (1983 Payment level)

Original amount for other expenses \$127
 Less 27.5% Reduction -\$87
 New amount left for other expenses \$40

CORRECTION

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



Rev. 6/98

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

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1993
PHONE (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
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PHONE (907) 465-3600
FAX (907) 465-6736 2520

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 13, 1999

Hon. Eldon Mulder, Co-Chair
Hon. Gene Therriault, Co-Chair
House Finance Committee
House of Representatives
State Capitol
Juneau, Alaska 99801

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legal issues encountered

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Hon. Eldon Mulder
Hon. Gene Therriault
Re: HB 161

April 13, 1999
Page 2

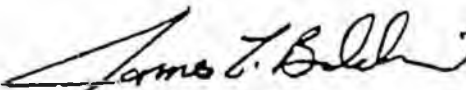
amounts if there is a sufficient expression of legislative intent to permit it. However, the bill does not contain an express provision to allow such an exception. Even if it did, the process described can be characterized as arbitrary and may be vulnerable to attack as not being sufficient to extinguish a vested right otherwise vested by law.

CSHB 161 does not appear to repeal or amend the entitlement to a benefit set out elsewhere in existing law. If that is the intent, the method used in this bill to establish such a result may well be defective because the bill purports to impliedly repeal a host of other enabling statutes for benefit programs. Implied repeals are not favored by the courts who can be expected to apply interpretations that give effect to all applicable statutes. In other words, CSHB 161 may have the effect of limiting the power of a grantor agency to pay but not the right of the beneficiary to ultimately receive the benefit accorded by law. This means that the class of beneficiaries of benefit programs may have a valid claim to any unpaid benefit plus costs and attorney fees incurred in recovering those benefits. This could expose the state treasury to substantial liability for the payment of judgments and claims.

We hope these comments will cause you to reconsider the policies set out in CSHB 161 and, if you are so inclined, undertake a different and more legally defensible approach to accomplishing your goals.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL


By: James L. Baldwin
Assistant Attorney General

JLB:jn

ADULT PUBLIC ASSISTANCE FACT SHEET

Prepared by Division of Public Assistance 4/21/90

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Kodiak	202	2%
Kenai Peninsula	808	6%
Mat-Su Valley	1249	9%
Prince William Sound	207	2%
Rural Interior	640	5%
Northwest	266	2%
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Bethel, Dillingham	723	6%
Aleutians	122	1%
	12,523	

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New amount left for other expenses	\$111

10% Reduction

Original amount for other expenses	\$127
Less 10% Reduction	-\$32
New amount left for other expenses	\$95

27.5% Reduction (1983 Payment level)

Original amount for other expenses	\$127
Less 27.5% Reduction	-\$87
New amount left for other expenses	\$40



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

State Capitol
Juneau, Alaska 99801-1182

COMMITTEE SUBSTITUTE for HOUSE BILL 161 (FIN)

Sponsor Statement

House Bill 161 allows program administrators to reduce payments in benefit programs to match the appropriated level of funding. It allows the legislature and administration to deal with reductions in revenue and increases in recipients in a simple and practical manner. The opportunity to pro-rate benefits creates a better option than closing a program down in later months of a fiscal year.

The current circumstance requires that payments be made at a prescribed level without reference to appropriation. If the enrollment exceeds affordable levels, managers would be allowed to manage within the appropriated resources. The only current option is to request a supplemental appropriation or shut a program down in the later months of the fiscal year.

The Committee Substitute specifically excludes loan programs, retirement programs and programs for which other provisions of law address underfunding.

HB 161 provides a reasonable budgetary tool to the administration and legislature. We believe there are no programs in the FY 00 budget that would be affected by HB 161. It will provide a tool that may be needed to help deal with future fiscal realities.



DISABILITY
LAW CENTER
OF ALASKA



JUNEAU

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Juneau, AK 99901
(907) 586-1627
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April 23, 1999

By hand delivery

Hon. Sean Parnell
Co-chair, Finance Committee
Alaska Legislature
Capitol Room 518
Juneau, Alaska

Hon. John Torgerson
Co-chair, Finance Committee
Alaska Legislature
Capitol Room 516
Juneau, Alaska

Re: **SB 126 / HB 161: Limitations on benefits due to shortfall in appropriations**

Dear Senators Parnell and Torgerson:

Enclosed please find my written testimony regarding CSHB 161. This bill provides for pro-rata reductions in benefit programs when those programs are underfunded. This bill would :

- * cause across-the-board benefit cuts without consideration of individual need, contrary to the intent of many of the affected programs
- * unfairly impose the cost of the budget deficit on the most needy Alaskans, already living in poverty – many unable to work due to disability
- * ignore the reality increased cost of living, effectively driving more Alaskans below the poverty line, closer to homelessness
- * raise legal ambiguities, constitutional issues and other legal questions that invite unnecessary, wasteful litigation
- * risk loss of matching federal dollars at a time when we need them the most, and are in the best position to get them with our current seniority in the U.S. Congress

I urge the Senate Finance Committee to not pass the bill in its present form, for these reasons and others expressed in the attached testimony.

Very truly yours,

Robert B. Briggs
Staff attorney

MEMBER OF THE
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Encl.

cc: (w/ encl.)

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Other members of Senate Finance Committee

Rick Tessandore, exec. dir., Disability Law Center of Alaska, Inc.



Statement of Robert B. Briggs
Staff Attorney, Disability Law Center of Alaska, Inc.

Testimony before the Senate Finance Committee
April 26, 1999

Hearing on C.S.H.B. 161:
Pro-rata reduction in benefits that are under-funded

Mr. Chairmen, members of the Senate Finance Committee, I am a staff attorney in the Juneau office of the Disability Law Center of Alaska, Inc. The Disability Law Center is a non-profit Alaska corporation organized to provide legal representation and advocacy on behalf of Alaskans with disabilities, with four offices statewide in Anchorage, Fairbanks, Bethel, and Juneau. We provide individual legal representation, and also try to provide effective systems advocacy where appropriate to assist persons with disabilities.

I. Pro rata reductions without modifications of the benefit formulas is bad public policy

One of the most important benefits to those Alaskans with disabilities significant enough to prevent work is Adult Public Assistance, provided through the Division of Public Assistance of the Department of Health and Social Services. This supplemental benefit program provides a cash benefit to complement the Supplemental Security Income (SSI) benefit that persons with severe disabilities receive in order to live. Currently, the maximum SSI benefit that a person may receive is approximately \$484 per month, or \$5,808 per year. This federal benefit is far below the poverty level established for a single individual in Alaska, currently established at \$10,320 for a single individual.

The Alaska Legislature, recognizing the importance of supplementing the inadequate federal SSI benefit, wisely decided that it was in the best interests of all Alaskans to provide a cash supplement – the Adult Public Assistance supplement – to ensure that every needy Alaskan had income at least equal to the federal poverty guideline. The APA benefit is designed to do just this, and ensure that all Alaskans have the minimum to survive at the federal poverty guideline.

In practical reality, the federal poverty guideline for Alaska is just that, a guideline. From our experience we know that there are communities where people are hard-pressed to survive even at the poverty guideline level, and many Alaskans are homeless simply because they cannot afford adequate housing.

This is current benefit levels. If CSHB 161 becomes law, it will make it easier for cash benefits like Adult Public Assistance to be cut – invisibly – in the appropriations process in conference committees, with little public input or scrutiny.

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This is bad public policy. You are best assisted to make the best decisions for all Alaskans in the crucible of public, open debate.

2. Legal problems with CSHB 161

The Alaska Department of Law, in a letter written within the last two weeks, expressed reservations about whether CSHB 161 is unconstitutionally vague and violates principles of separation of powers. I have the same reservations about the bill. For example, the question is immediately presented as to whether the bill constitutes an impermissible delegation of legislative powers of appropriation. In 1987 when the Legislature was dealing with a similar fiscal crisis due to a fall in oil prices, the Alaska Supreme Court struck down former AS 37.07.080(g)(2) of the Executive Budget Act, ruling it an unconstitutional delegation of legislative power. *State v. Fairbanks North Star Bor.*, 736 P.2d 1140, 1142-43 (Alaska 1987). The test on this issue is whether a bill providing a power of proration "sufficiently marks the field within which the administrator is to act so that it may be known whether he has kept within it in compliance with the legislative will." 736 P.2d at 1143, quoting *Synar v. United States*, 626 F.Supp. 1374, at 1387 (D.D.C. 1986), affirmed, *Bowsher v. Synar*, 478 U.S. 714 (1986).

Despite my letters to the House Finance Committee expressing concern about the lack of clarity as to exactly how a state agency administrator is to determine "if an appropriation is not sufficient to fully fund all payments to individuals," as well as lack of a definition of the important term "benefit program," in this regard the language in the CS remains the same as that contained in the original bill. In so doing, it retains what is in my view a fundamental flaw of the bill, a lack of sufficient guidance to the program administrator on when and exactly how to make a determination to prorate, and vagueness as to which "benefit programs" are subject to the proration directive.

I am mindful that there are at least three Alaska statutes with benefit reduction mechanisms that operate when appropriations are insufficient to pay the expenses of benefits:

<u>Benefit Program</u>	<u>Cite</u>
CAMA	AS 47.08.150(e)
Medical assistance (including Medicaid)	AS 47.07.035
General Relief Assistance	AS 47.25.195(e)

Each of these statutes is subject to legal challenge for lack of a specific framework for determination of when to prorate or cut benefits, but at least these statutes more clearly identify the programs to which the proration directive applies.

There are examples of proration statutes from other states which have passed the constitutional muster of their respective Supreme Courts, as well as examples which have not. *E.g., Folsom v. Wynn*, 631 So.2d 890 (Ala. 1993)(unconstitutionality of proration statute applied to judiciary as constitutionally mandated function); *Chiles v. Children A, B, C, D, E, and F*, 589 So.2d 260 (Fla. 1991)(invalidating Florida proration statute); *Bruneau v. Edwards*, 517 So.2d 818 (La. App. 1987)(finding certain Louisiana proration statutes constitutional, while invalidating one provision). There are likely other cases from other states which could help in the crafting of this legislation to be as constitutional as possible. I believe the appropriate forum to resolve these questions regarding the constitutionality of CSHB 161 is not the Finance Committee, but instead the Judiciary Committee. However, this bill has not been reviewed by either of the Judiciary Committees in the Senate or the House. By omitting this important point for input and review, I believe the Legislature is inviting unnecessary and wasteful litigation to test the constitutionality of the bill.

3. "Benefit program" may encompass more than simply cash benefit programs

There is a potentially large impact of the bill on any underfunded program that might be classified as a "benefit program," due to the inherent vagueness of the phrase. It helps that Rep. Eldon Mulder, during colloquy on the House floor, explained that the phrase "payments to individuals" was intended to apply only to payments made to a *recipient* and was not intended to include payments to *providers*. Thus programs such as Medicaid, CAMA, and others where the recipient is receiving services, as opposed to cash, will not be affected by the bill according to the present legislative history.

If the intent of the bill is to reach only the cash payments under the ATAP, Adult Public Assistance, and the Longevity Bonus Programs, this intent should be clearly expressed. Right now, this intent is subject to dispute. It would be best if the Legislature's intent were made explicit in the text of the bill by adding a definition of "benefit program," rather than needing to resort to legislative history to interpret the bill.

The CS added three exceptions to the application of the bill: (1) "loan programs"; (2) "state employee retirement benefit programs," and (3) "programs for which other provisions of law address underfunding." Under usual rules of statutory construction, description of exceptions are often interpreted as expression of an intent that the bill apply to those matters similar to, but not expressly contained in, the list of exceptions.

By exempting state employee retirement benefit programs, CSHB 161 opens the question of what other state employee "benefit program" might be covered by the bill. One of the principle "benefits" of state employment is a wage or salary, provided either by statutory salary schedule or by collective bargaining agreement. The bill opens up the question of whether

payments under a statutory salary schedule or collective bargaining agreement are required to be reduced pro rata if appropriations are insufficient to cover the state's obligation.

Similarly, there are other insurance programs for which state employees are beneficiaries and for which cash benefits may accrue, including: life insurance, accidental death and dismemberment insurance, weekly indemnity insurance, and various medical expense insurance policies. Depending on the type of policy or the mode of payment, the covered beneficiary may receive a cash payment directly from a general fund appropriation BRU. Thus there is a legal question as to the which other benefits to state employees, besides a retirement benefit program, are covered by the bill. In an absence of further clarification, the usual statutory construction would suggest that any program funded by appropriations that results in cash payments to the beneficiary is subject to the bill, because by exempting "retirement benefits" the Legislature may be presumed to have intended the bill to reach all other benefits that inure to state employees other than retirement benefits.

For public employees who become disabled, non-occupational and occupational disability benefits provided under AS 39.35.400 and 39.35.410 – cash payments to the beneficiary – are arguably subject to the current language of CSHB 161. Thus persons with disabilities – in this instance former state employees with disabilities, to the extent the disability programs are funded from general fund appropriations – may be affected by the bill. It is not clear whether that is the intent of the bill sponsors.

Conceivably, the phrase "benefit program" could also include the cash benefits provided under the Alaska Employment Security Act. I understand that the current trust fund for such benefits is of sufficient magnitude that state general fund appropriations will not be necessary to fully fund this program. However, there is a set of statutes which provide for state general fund appropriations to be deposited in the Employment Security Administration Fund. AS 23.20.155, 23.20.160. Thus the proration statute could arguably apply to the Employment Security Administration Fund when state general fund appropriations are necessary.

The Senate Finance Committee would have benefited from evaluation of these issues in the HESS and Labor & Finance Committees, but again the bill has not been examined by one of these committees in either the House or Senate.

Thus I urge you to decline to act on CSHB 161, and refer the matter to the HESS and Labor & Commerce Committees to resolve these issues.

Conclusion

All members of the Legislature must wrestle with the extreme circumstances of the current state fiscal crisis. CSHB 161 is one idea of how to respond to that crisis that, while simple, has far-reaching ramifications that have not been well thought out. For these reasons, I urge a "no" vote on passage of CSHB 161.



April 23, 1999

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28905 Reflection Lake Rd
Soldotna, AK 99669
April 24, 1999

RE: SB 113, 151, 126 and 40

HB 161

Dear Senator Torgerson,

I know you will be flooded with correspondence regarding the referenced SBs. It seems everyone and every agency wants his or her little piece of pie left intact and okay to take it away from somewhere else. I realize we are facing a serious financial shortfall and cuts have to be made.

I support these bills as I don't believe the legislative alerts that many of the affected agencies are flashing over the fax and phonelines will have anywhere near the detrimental effect they claim. They don't seem to realize that each Alaskan must share in the pain the budget shortfall will cause.

I am a firm believer that government expenditures are too high and must be cut. We can't break our piggybank this year to get at the PDF and an income tax and expect that it will cure our problem down the road. We need to reduce the amount of money it takes to run the government before we look at the PDF or any sales or income tax.

I strongly support any efforts to curtail government expenditures provided there is a safety net for those that truly, and I do mean truly, need financial support.

Respectfully,



Ken Losser