

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672

6814 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

- 1 (1) the executive branch;
- 2 (2) labor organizations;
- 3 (3) school districts;
- 4 (4) municipalities;
- 5 (5) private sector employers;
- 6 (6) health care providers.

7 (b) Members of the board serve staggered terms of four years. The board shall elect
8 from its membership a president, vice-president, and secretary. Members of the board serve
9 without compensation but are entitled to receive per diem and travel expenses authorized for
10 boards and commissions under AS 39.20.180. Members of the board are subject to AS 39.50.

11 Sec. 21.77.030. GENERAL POWERS. The authority may

12 (1) beginning July 1, 1992, exercise the powers granted to insurers under the laws
13 of the state; if the authority acts as an insurer, the authority shall comply with the requirements
14 applicable to insurers under this title;

- 15 (2) sue or be sued;
- 16 (3) enter into contracts or agreements;
- 17 (4) establish administrative or accounting procedures;
- 18 (5) collect, invest, and disburse funds;
- 19 (6) charge fees for providing administrative services;
- 20 (7) establish appropriate levels of reserves to cover the expenses of the authority;
- 21 (8) adopt necessary regulations and procedures for implementation of this chapter.

22 Sec. 21.77.040. DUTIES OF BOARD; ANNUAL REPORT. The board shall

23 (1) in providing group health insurance required under this chapter, provide
24 comprehensive coverage at the lowest possible cost per eligible employee;

25 (2) provide to the governor and to the legislature an annual report covering the
26 previous fiscal year's activities of the authority;

27 (3) review each application for a certificate of need under AS 18.07.041 and
28 within 60 days after receiving a copy of the application determine the effect of issuing the
29 certificate on the cost of the group health insurance required under this chapter; a copy of the
30 determination shall be provided to the office of planning and research in the Department of
31 Health and Social Services;

1 (4) every third fiscal year, include in the annual report a cost and benefit analysis
2 of the activities of the authority.

3 Sec. 21.77.050. STAFF AND PROFESSIONAL SERVICES CONTRACTS. The
4 authority shall employ an executive director who serves at the pleasure of the authority as its
5 chief administrative officer. The executive director may, with the approval of the authority,
6 select and employ additional staff as necessary. Employees of the authority are in the exempt
7 service under AS 39.25.110. In addition to its staff of regular employees, the authority may
8 contract for the services of consultants and professional, technical, and financial advisors the
9 authority considers necessary for the purpose of developing information, conducting hearings,
10 studies, investigations, or other proceedings, or otherwise exercising its powers.

11 Sec. 21.77.060. PROCUREMENT OF INSURANCE. (a) The authority shall, after
12 July 1, 1992, obtain a policy or policies of group health insurance covering eligible employees
13 of an employer that has elected to participate, from an insurer authorized to transact business in
14 the state under AS 21.09, or act as a self-insurer if the authority determines that self-insurance
15 can provide the desired insurance coverage and benefits at a lower cost per eligible employee.

16 (b) Except when acting as a self-insurer, the authority shall obtain group health insurance
17 in compliance with the provisions of AS 36.30 and shall make available bid specifications for
18 desired group health insurance benefits to all insurance carriers licensed in the state and qualified
19 to provide the desired benefits. The specifications shall be made available at least once every five
20 years.

21 Sec. 21.77.070. ALASKA STATE HEALTH RESOURCES FUND. The Alaska state
22 health resources fund is created in the general fund. The fund consists of money appropriated
23 by the legislature. The fund shall be managed and invested by the board. The board may expend
24 money from the fund to carry out the provisions of this chapter.

25 Sec. 21.77.080. INSURANCE PREMIUMS. The authority shall provide that sufficient
26 funds are collected to provide authorized benefits, reserves, and to pay the expenses of the
27 authority. Reserves remaining at the termination of an insurance contract shall be invested by
28 the authority in the same manner as retirement funds are invested under AS 14.25.180.

29 Sec. 21.77.090. PARTICIPATION; WAIVER. (a) The state, a municipality, a district,
30 or other employer in the state may participate in the group insurance coverage provided by the
31 authority. If the state, municipality, district, or other employer elects to participate, the state,

1 municipality, district, or other employer shall continue to participate unless a waiver is granted
2 by the board.

3 (b) In determining whether a waiver should be granted, the board shall establish
4 minimum benefit and financial standards for the desired group health insurance coverage. The
5 minimum benefit and financial standards and the proposed time schedule for responsive offers
6 shall be sent to all participants at the time the request for proposal for the desired group health
7 insurance coverage is issued. A participant seeking a waiver of coverage shall match the
8 minimum benefit and financial standards set out in the request for proposal for the desired group
9 health insurance coverage. Participants shall submit documentation of their insurance coverage
10 matching the board's minimum benefit and financial requirements before the deadline established
11 by the board. The board may approve or disapprove a waiver of participation based on the
12 documentation submitted by the participant regarding the benefit and financial standards
13 established by the board.

14 (c) A participant may separately provide for health insurance coverage additional to that
15 offered by the authority.

16 Sec. 21.77.100. DEFINITIONS. In this chapter,

17 (1) "authority" means the Alaska State Health Resources Authority;

18 (2) "board" means the board of directors of the Alaska State Health Resources
19 Authority;

20 (3) "district" has the meaning given in AS 14.17.250;

21 (4) "eligible employee" means an employee of a participant who qualifies for
22 group health benefits as determined by the participant;

23 (5) "eligible state program" means a program in which an agency of the state
24 provides health care or provides funds to purchase health care for persons who are not employees
25 of the state;

26 (6) "employer" means the state, a municipality, a district, a collective bargaining
27 unit, the board of a public corporation of the state created within a principal executive
28 department, a self-employed person, or a person employing one or more persons in a business
29 or industry;

30 (7) "fund" means the Alaska state health resources fund;

31 (8) "group health insurance" means coverage that may include life insurance,

1 accidental death and dismemberment, medical care and treatment, dental care, eye care, and other
2 group health coverage as determined by the authority;

3 (9) "municipality" includes a public corporation established by a municipality;

4 (10) "participant" means the state, a municipality, a district, or other employer in
5 the state;

6 (11) "reimbursement system" means a system or method that streamlines or results
7 in cost efficient payments to health care providers, and includes schedules of maximum allowable
8 reimbursement for health care related services based on geographic regions, actual provider costs,
9 and availability of services;

10 (12) "state" means the executive, legislative, and judicial branches of state
11 government, and includes the University of Alaska and a public corporation of the state created
12 within a principal executive department;

13 (13) "utilization standards" means a system to monitor, track, and verify patterns
14 of treatment by health care providers that assures that cost efficient and cost effective care is
15 provided within accepted medical standards without reducing the quality of care.

16 * Sec. 5. AS 37.07.030 is amended to read:

17 Sec. 37.07.030. RESPONSIBILITIES OF THE LEGISLATURE. The legislature shall

18 (1) provide for a budget review function;

19 (2) analyze the comprehensive operating and capital improvements programs and
20 financial plans recommended by the governor;

21 (3) adopt legislation to authorize implementation of the governor's comprehensive
22 operating and capital improvements programs and financial plans or appropriate alternatives to
23 those plans;

24 (4) provide for a post-audit function to cover financial transactions, program
25 accomplishment, and compliance with legislative intent;

26 (5) adopt or revise the estimate of receipts required to balance the succeeding
27 fiscal year's budget in order that proposed expenditures do not exceed estimated receipts for that
28 fiscal year;

29 (6) adopt, revise, or initiate revenue measures in order to balance the succeeding
30 fiscal year's budget and the capital improvements section of the budget for the succeeding six
31 years;

1 (7) appropriate funds for the operation of the Alaska State Health Resources

2 Authority.

3 * Sec. 6. AS 39.25.110 is amended by adding a new paragraph to read:

4 (30) employees of the Alaska State Health Resources Authority.

5 * Sec. 7. AS 39.50.200(b) is amended by adding a new paragraph to read:

6 (52) Alaska State Health Resources Authority (AS 21.77).

7 * Sec. 8. REPORT. The Alaska State Health Resources Authority shall report to the Alaska State
8 Legislature by March 1, 1992, on the progress made by the authority in establishing a health care
9 provider reimbursement system and utilization standards.

10 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

HOUSE CONCURRENT RESOLUTION NO. 5
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES ELLIS, Boyer, Navarre, Koponen, Ulmer

Introduced: 2/13/91

Referred: Health, Education and Social Services, Finance

A RESOLUTION

1 **Establishing a Health Resources and Access Task Force.**

2 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 **WHEREAS** estimated annual expenditures for health care in Alaska have risen by 300 percent
4 in the last 10 years from \$480 million to over \$1.5 billion; and

5 **WHEREAS** over 90,000 residents of the state cannot afford to pay their medical bills, are not
6 covered by a group health insurance plan, do not qualify for public assistance programs, and cannot
7 afford to pay individual health insurance premiums; and

8 **WHEREAS**, if current trends continue, it is estimated that expenditures for health care in the
9 state will increase to at least \$10 billion by the year 2000 and over 25 percent of the state's residents
10 will be uninsured; and

11 **WHEREAS** the legislature, aided by the Health Care Cost Containment Task Force, has achieved
12 savings in the costs of health care in the state totaling over \$20 million in fiscal years 1990 and 1991;
13 and

14 **WHEREAS** every resident should have access to a basic level of health care regardless of
15 income and should not become financially destitute before obtaining health care; and

16 **WHEREAS** the legislature recognizes that there is a continuing need to develop and evaluate

1 ways to manage health care expenditures in the state;

2 **BE IT RESOLVED** by the Alaska State Legislature that the Health Resources and Access Task
3 Force is established with the following primary purposes:

4 (1) to design a cost-efficient program that allows access to a basic level of health care
5 services for all state residents;

6 (2) to continue the work of the Health Care Cost Containment Task Force in seeking
7 ways to achieve savings in the cost of health care in the state; and

8 (3) to define a strategy for implementing a health care program covering all Alaskans and
9 a strategy for continuing to contain the costs of health care in the state; and be it

10 **FURTHER RESOLVED** that the task force shall

11 (1) solicit advice and information from the medically indigent, health care consumer
12 groups, the insurance industry, health care providers, labor organizations, emergency services personnel,
13 large and small businesses, the Medical Care Advisory Committee, the Alaska Native Health Service,
14 actuaries, the public, and others;

15 (2) investigate and gather data relating to health care quality, access, delivery, payment
16 systems, and financing in the state, especially in rural areas;

17 (3) ascertain and review successful health care protection methods in other states,
18 territories, and countries and other health care alternatives, including ways of providing health care for
19 persons without insurance or with limited health care protection;

20 (4) continue to update an accurate estimate of the number of people who are unable to
21 receive necessary health care services in the state, which patients are generating unpaid medical bills,
22 which state residents are uninsured or lack adequate insurance, which health care providers are providing
23 uncompensated care, who is paying for the cost of uncompensated care, and the total cost of
24 uncompensated care in the state;

25 (5) identify those health care services necessary to achieve an acceptable minimum level
26 of health care for all state residents and to examine those health care services that provide the most care
27 for the most people at the least cost, including prevention services;

28 (6) monitor and evaluate experience under the state employee and retiree health plans;

29 (7) evaluate the potential benefits of health education, wellness plans, and prevention
30 plans for all residents;

31 (8) develop strategies to support health care professions training and the retention of
32 health care professionals in the state;

1 (9) recommend ways to coordinate services among nonprofit health care providers, profit
2 making health care providers, the state division of public health, the United States Department of
3 Veterans Affairs, the United States Department of Defense, and the Alaska Native Health Service in
4 order to achieve a more efficient and effective health care delivery system;

5 (10) review ways to maximize the use of federal funds for health care programs in the
6 state;

7 (11) investigate ways to reduce costs associated with malpractice insurance coverage,
8 including its effect on the cost of health care in the state;

9 (12) consider the feasibility of redistributing funds currently spent by the state on health
10 care in order to provide residents with affordable and equitable care;

11 (13) provide advice and assistance to other public agencies involved in health care
12 programs; and

13 (14) pursue other sources of funding for the expenses of the task force; and be it

14 **FURTHER RESOLVED** that the task force shall consist of 14 members and two alternates as
15 follows:

16 (1) three members of the Senate appointed by the President of the Senate, one of whom
17 shall be designated as an alternate;

18 (2) three members of the House of Representatives appointed by the Speaker of the
19 House, one of whom shall be designated as an alternate;

20 (3) two persons representing the executive branch, appointed by the Governor;

21 (4) eight members chosen by the members appointed under paragraphs (1) - (3) as
22 follows: one individual representing the medically indigent, two individuals representing private
23 employers who are not health care providers, two individuals representing health care providers, one
24 individual representing nonprofit organizations, one consumer of health services who is not an employer
25 or health care provider, and one individual representing labor organizations; and be it

26 **FURTHER RESOLVED** that the members of the task force shall elect from among themselves
27 a chair and a vice-chair and that the conduct of the task force meetings shall be in sessions open to the
28 public where all interested parties may provide information; and be it

29 **FURTHER RESOLVED** that, within funds made available for the purpose, the task force may
30 hire staff and contract for services to perform its duties; and be it

31 **FURTHER RESOLVED** that the task force shall report its findings and recommendations to
32 the Governor and the legislature by February 1, 1992, and February 1, 1993; and be it

1 FURTHER RESOLVED that the task force is terminated at 11:59 p.m. on February 1, 1993.

H B

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CCE

Cooper Consulting Engineers

8183 THREADNEEDLE • JUNEAU, ALASKA 99801 • 907-789-3422

February 8, 1991

TO: Representative Ulmer
 Representative Hudson
 Representative Finkelstein
 Representative Donloy
 Representative Farnell
 Representative Bruckley
 Representative Ivan
 Representative Taylor
 Representative Zawacki

FEB 08 1991

SUBJECT: House Bill 78 - Alaska Family Protection Act

We encourage you to not recommend passage of this bill in its present form. The bill in its present form mandates leave policies in the guise of family protection that are less protective of the family than are other policies that most employers would practice if the business consequences of those policies were mitigated. The bill does not address any mitigating measures, while mandating the leave policies. The ultimate effect of the bill will be to discourage business growth in this state at a time when that growth is most necessary.

The leave policies required are possibly justified, but only because other state laws and regulations so tightly restrict work schedules, overtime and shift work that other arrangements are not possible. Unpaid leave should be the last resort as it has the maximum negative impact on both the employee and employer. Instead of mandating the course of maximum negative impact, the bill should stipulate the goals for private sector employers and that for the 18 week period the employer and employee are exempt from various requirements of state law and regulation covering hours, shift differential, and other work place rules so that neither is unnecessarily impacted.

The Legislature should be considering methods to encourage and assist employers, through incentives, regulatory exemptions, and restrictions on liability, to meet the needs of employees and families; not methods that ultimately penalize both as does this bill.

Sincerely,

John D. Cooper
 John D. Cooper, P.E.
 Principal

FAX TRANSMITTAL MEMO

TO: LEGISLATIVE INFORMATION

DEPT: _____ FAX #: 463 5661

FROM: John Cooper PHONE: 789-3422

CO: CCE FAX #: 789-3422

Post-It brand fax transmittal memo 7671

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LARRY'S QUALITY HEATING & PLUMBING, INC.
2531 BARRETT AVE.
JUNEAU, ALASKA 99801
907-789-2939

FEB 07 1991

REP. DAVID FINKELSTEIN
P.O. BOX V
JUNEAU, ALASKA 99811

FEBRUARY 5, 1991

DEAR REP. FINKELSTEIN,

I AM ENCLOSING A COPY OF MY LETTER TO FRAN ULMER SO THAT YOU WILL BE AWARE OF OUR FEELINGS AGAINST HOUSE BILL 78. THIS BILL PUTS STATE GOVERNMENT IN THE ROLE OF A UNION WITHOUT THE BENEFIT OF EMPLOYER INPUT. ALTHOUGH WE DO NOT HAVE OVER TWENTY EMPLOYEES AT THIS TIME, IT IS POSSIBLE THAT WE COULD IN THE FUTURE AND HAVING TO MEET THE CONDITIONS OF THIS BILL COULD IMPOSE A GREAT HARDSHIP ON OUR OPERATION.

PLEASE CONSIDER THIS AND DO WHATEVER POSSIBLE TO PREVENT PASSAGE OF THIS BILL.

SINCERELY,

Larry Schultz
Janice Schultz

LARRY & JANICE SCHULTZ

enc

Chugiak-Eagle River
Chamber of Commerce
(907) 694-4702

RECEIVED
MAR - 8 A.M.

P.O. Box 770353
Eagle River, Alaska 99577

12110 Business Bl. J.
Eagle River, Alaska 99577

March 5, 1991

Representative Pat Carney
Representative Georgianna Lincoln
Representative Bettye Davis
Representative Cheri Davis
Representative John Gonzales
Representative Mark Hanley
Representative Mary Miller
House Health Education & Social Services Committee
PO Box V
Juneau, AK 99811

On behalf of the Chugiak-Eagle River Chamber of Commerce Board of Director's, I would like to take a moment to express our organization's concern regarding HB 78. Our understanding of this proposed legislation is that all businesses employing 20 or more people would be required to give their employees 18 weeks of leave every 12 months to deal with pregnancies, births or adoptions and another 18 weeks every 24 months to handle serious illnesses among family members.

As community members, the Chamber acknowledges the need to support people through major life changes. However, as business owners, the Chamber Board is concerned with the increased financial burden placed on the small business person which will occur in the event that this legislation is passed. The Chamber believes that private business owners should have the right to treat their employees on an individual need basis and as they can afford not as the government mandates with such blanket legislation.

We appreciate your consideration of this point of view. If the Chamber can be of assistance, please feel free to call me at 694-4702.

Sincerely,



Louise Smith
Board President

sg

Rep. Kay Brown
3/11/91

**House Bill 78
Alaska Family Protection Act**

Endorsements

Alaska Commission on Children and Youth
P.O. Box A
Juneau, AK 99801
465-3155

Alaska Family Support Group
(Steven Strube, President)
P.O. Box 521155
Big Lake, Alaska 99652
892-7760

Alaska League of Women Voters
(Dr. Vicky Borrego, Legislative Liaison)
3455 Meander Way
Juneau, Alaska 99801
789-1764

Business and Professional Women's Club
(Eleanor Davenport)
P.O. Box 210764
Auke Bay, Alaska 99821
789-7416 (h) 586-8300 (o)

American Association of University Women, Alaska
(Rosemary Van Der Laan, President)
3549 Spinnaker Drive
Anchorage, Alaska 99516
345-4644

endorsements



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

February 6, 1991

To: **Representative Finkelstein, Chair**
Members, House Labor & Commerce Committee

Re: **HB 78; "An Act relating to employment rights**
based on pregnancy, childbirth, and related
conditions, sick leave, and family leave."

NEA-Alaska strongly supports HB 78 and encourages favorable consideration by the Committee.

The Findings and Purpose section of the bill quite accurately describes the need for this kind of legislation. Further, this legislation enhances critical continuity in programs and services in that it facilitates longer range planning.

In K-12 public education the assurance of access to such leave will enable employees and employers to better anticipate specific requirements relative to substitute teacher needs.

There are three areas of technical concern which may require some clarification. Relative to provisions of existing collective bargaining agreements which currently exist it is our assumption that the reference is only to the provision(s) of the agreement which pertains to access to leave.

As you read the language in Sec. 5, page 2, line 24; Sec. 6, page 5, lines 13 & 16; Sec. 7, page 6, line 25; and, Sec. 10, page 8, line 15, it could be construed to mean that entire collective bargaining agreement is void if any provision of it were inconsistent with AS 23.10.500-550. We would, of course, have a serious problem with that interpretation.

In Sec. 6, page 4, lines 1-3, we also assume that if a collective bargaining agreement has specific language relative to health insurance premiums and benefits coverage for leaves of absence that it would prevail?

In Sec. 6, page 5, line 2, we would like to have some clarification of what kind of employer legal liability might be constrained or protected by this language.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners
Executive Director

Don Oberg
President

cc: Representative Brown

Alaska Women's Lobby

P.O. Box 210685
Anchorage, Alaska 99521
(907) 333-0719

May 2, 1991

Representative Georgianna Lincoln
P.O. Box V
Juneau, Alaska 99811

Dear Representative Lincoln:

I would like to take this opportunity to thank you for the prompt attention and support you have shown to issues of importance to women and children as they have come before your committee.

The Alaska Women's Lobby would like to make a formal request for a hearing on HB 78, legislation known as the Family Protection Act or simply as Family Leave. This bill, sponsored by Rep. Kay Brown provides simply the security of knowing one may return to one's work when one must take leave to attend to a new-born or newly adopted child or to attend to the serious illness of a family member.

HB 78 is pro-family legislation that is especially important to women who despite their full participation in the work force remain the primary care-givers for their families.

Similar legislation has passed the House twice before this year but has not yet been accepted by the Senate. We believe that the change made by the Labor and Commerce Committee substitute to limit the scope of the policy to state and local government will increase support for the bill in the Senate.

The sooner the bill reaches the Senate for consideration the better the chances of passage and we therefore urge you to consider a hearing on HB 78 when you are next scheduling bills.

Thank you again for holding the initial hearing on HB 268, the Reproductive Privacy Act. It is the hope of many women and men concerned particularly about the economic justice issue of denying poor women the option of abortion that HB 268 will soon be returned to the HESS Committee for discussion and passage.

Thank you for your consideration.

Sincerely, *Sherrie Goff*

Steering Committee

Anchorage Members:

Virginia Allen
Nancy Groszek
Theda Pittman
Rhonda Roberts
Glenda Straube
Jana Varrati

Fairbanks Members:

Marsha Hubbard
Patty Kastelic
Drena McIntyre
Wendy Redman
Nadine Winters

Juneau Members:

Sara Boesser
Shirley Dear
Barbara Miklos
Cindy Smith
Carla Timpone

Lobbyist:

Sherrie Markin Goff
P.O. Box 22156
Juneau, Alaska 99802
(907) 463-6744

"Most politicians will not stick their necks out unless they sense grass-roots support... neither you nor I should expect someone else to take our responsibility. If we remain passive, they will surely win."

- Katharine Hepburn





801 Lincoln Street
 Sitka, Alaska 99835
 907/747-9523 Home; 907/747-8672 Work
 February 12, 1991

House Labor and Commerce Committee Members
 Alaska State Legislature
 P.O. Box V
 Juneau, AK 99811

Dear Representatives Finkelstein, Parnell, Ivan, Donley, Bruckman, Taylor, and Zawaacki,

The League of Women Voters of Alaska supports House Bill 78, "The Alaska Family Protection Act," recently introduced by Representative Kay Brown and co-sponsored by Representatives Ulmer, Donley, Ellis, Koponen, Kubina, Finkelstein, Gruenberg, and Bettye Davis. The purposes of this bill are consistent with the social policy positions adopted by the League of Women Voters of the United States.

First, one of the purposes of HB 78 recognizes that "the number of single-parent households and two-parent households in which the single parent or both parents work outside the home is increasing significantly" and that "the lack of employment opportunities to accommodate working parents can force individuals to choose between job security and parenting." HB 78 would aid in insuring access to employment for parents, thus being consistent with the LWVUS position which supports equal access to education, employment, and housing.

Second, and perhaps more importantly, HB 78 recognizes that "generally, parents are the best providers of care for their children" and that parents should be able to participate in early childrearing and health care for family members who need it. This is consistent with the LWVUS Meeting Basic Human Needs policy that "supports programs and policies to prevent or reduce poverty and to promote self-sufficiency for individuals and families." The leave policies provided for in the Family Protection Act would help prevent poverty by allowing family members to care for one another with both the security of employment (renewed income upon return to work) and the maintenance of an employee's group health plan.

Thank you for your consideration of our statement of support of this important bill.

Sincerely yours,

Jody Smothers Marcello
 Vice-President and Social Policy Chair
 League of Women Voters of Alaska

cc: Representative Kay Brown
 Representative Ben Grusendorf
 LWVAK President Marge Hays

WALTER J HICKEL
GOVERNOR



PHONE
(907) 561-4227

STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET · SUITE 742
ANCHORAGE, ALASKA 99503

FEB 12 1991

February 12, 1991

Representative David Finkelstein
House Labor and Commerce Committee
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Rep. Finkelstein and Members of the House Labor and Commerce Committee:

The Alaska Women's Commission is in strong support of HB78, the parental leave bill. HB78 seeks to enable people working outside the home to take unpaid leave without fear of losing their job so that they can provide the care to infants, sick children and elderly parents that is so critical for healthy families.

It is necessary to address in a positive way the impact on our families of the increasing number of women in the work force. Nationally less than 7% of families have a father working outside the home while the mother stays at home to take care of the children.

The cost to women of our lack of family leave policies is decreased earning capacity and decreased ability to nurture their families. The cost to society is increased welfare, unemployment and government funded care for elderly. Yet the costs to employers are minimal and, as shown by a recent U.S. General Accounting Office study, there are savings in training and hiring costs and increased employee loyalty and productivity. In Oregon, a year after parental leave was initiated, only 20 cases of non-compliance had been reported and one litigated. Virtually no businesses reported that they would reduce other benefits and only 1 in 3 employees using leave was replaced. States with parental leave policies have been shown to have higher job growth in the small business sector than states with anti-regulatory policies.

Two thirds of women who work are single, divorced, widowed or married to men earning less than \$15,000/year. In Alaska 68% of women aged 20 to 34 years are employed, and 78% of women aged 35 to 44 years. While Alaska has one of the highest birth rates in the nation, we also have the second highest participation rate of females in the work force.

When working full time, married women earn on average half of what married men earn. It is not surprising therefore that women disrupt their career or risk loss of their job to look after sick children and elderly parents. This creates a vicious cycle that prevents women from attaining promotions and seniority and thus reduces their earning capacity. Yet with over two out of three marriages in Alaska ending in divorce, it is critical for women, who often become the sole provider for their family, to earn an adequate income and to not risk losing their job or leaving sick children at home alone. Otherwise reliance on various forms of public assistance becomes their alternative, at considerable cost to the state.

Several national studies have looked at what private businesses now provide. These studies indicate that at least half of employers provide maternity leave. The Alaska Women's Commission conducted a study of Anchorage businesses with over 20 employees. In all sizes of businesses, 50 to 60% provided job protected maternity leave. In larger businesses the leave was often paid. When maternity leave is available for two parent families, 37% of women return to work in less than 8 weeks and 32% in 9 to 18 weeks. Thus, the impact of mandated leave is diminished by economic reality for most families since it is not fully used.

The National Association of Working Women recently made a multivariate analysis of business employment in seven states with parental leave compared with seven states considered to be pro-business because of anti-regulatory policies. The study addressed the question: Have small businesses grown more slowly or declined in those states which have mandated a family leave policy? The results of this study indicate that family leave policies have had no negative effect on job growth in the small business sector. In fact, family leave policies are associated with higher job growth in the small business sector. Businesses with less than fifty workers were estimated to hire approximately 21% more employees if these enterprises were located in a parental leave state. A second finding of this study is the positive association between a high rate of women's labor force participation and employment growth in all size firms. The well-being of employees, which correlates with productivity, decreases when family obligations clash with work responsibilities.

I look forward to your support of this bill. Family leave is a critical issue for families that needs to be addressed now.

Sincerely,



Ruth Lister
Executive Director

RL/bh

FAMILY LEAVE IN THE ANCHORAGE PRIVATE SECTOR

In March of 1990 the Alaska Women's Commission, in conjunction with the School of Social Work at U.A.A., surveyed a 20% sample of Anchorage businesses with over 20 employees. Their responses to questions on family and medical leave provide some valuable information on what is happening in the private sector. The results were broken down by number of employees (20-35, 36-50, 51-100 and 100+) and by industry.

The following are highlights from our research:

- In all categories of number of employees, between 50 and 59% of businesses have a maternity leave policy.
- By industry, retail, manufacturing and construction all have less than 50% of businesses with a maternity leave policy.
- For businesses with a maternity leave policy, 17% of businesses with 20 to 35 employees have paid leave, 28% with 36-50 and 51-100 employees have paid leave, and 60% with 100+ employees have paid leave.
- Unpaid maternity leave averages 12 weeks with little variation for number of employees in the business.
- 35% of businesses have paternity leave (19% did not know).
- Maternity leave is job protected for 92% of businesses with a policy.
- Maternity leave applies to part time employees in 38% of businesses with a policy.
- A maternity leave policy helped retain employees and increase employee morale for 75% of businesses with a policy (18% did not know).
- Maternity leave increased training costs for 17% of businesses and decreased productivity for 24% of businesses with a policy.
- 81% of businesses stated that their policy is positive overall for their business (19% did not know).
- 80% of businesses have a sick leave policy. There is little variation for number of employees.
- 75% of businesses with a sick leave policy allow leave to be used to look after a sick family member. These businesses also allow unpaid leave for this purpose.

At this time, just over half of businesses with over 20 employees have policies in place which are substantially similar to those proposed by Alaska's family and medical leave bill. Size of business affects the amount of paid leave, not the amount of unpaid leave that can be used. Smaller businesses rate their leave policy as positively as larger businesses.

These findings concur with recent research by the Families and Work Institute on four states that have implemented family leave legislation. For businesses in these states, 75% had no change in training costs and 83% had no changes in employment insurance costs. For parents in these states, 93% rated the effect of the law on family life as positive.

ALASKA WOMEN'S COMMISSION
(907) 561-4227
3601 C Street, Suite 742
Anchorage, Alaska 99503

Current State Laws

Thirty-one States and the District of Columbia have enacted some version of a family leave statute. The following comparison of these laws was derived from information compiled by the staff of the House Committee on Education and Labor.

Arizona

Maternity disability leave for State employees.

California

All public and private employers must provide maternity disability leave. Private employers with five or more employees must provide women with up to four months unpaid disability leave. State employees are provided with up to one year for birth and adoption.

Colorado

"Reasonable" leave provided to both State and private sector employees for maternity disability and adoption.

Connecticut

Private employers with at least 250 employees must provide 12 weeks unpaid leave over two years for birth, adoption or serious illness of the employee or a family member. After three years, all employers with more than 75 employees must provide 16 weeks of leave. State employees receive up to 24 weeks over two years.

District of Columbia

Employers with 50 or more employees (dropping to 20 or more in three years) must provide workers with 16 weeks unpaid leave over two years for birth, adoption or serious family illness. City agencies are also covered.

Florida

Female State employees are granted six months for birth; all State employees are granted four months for adoption.

Hawaii

All public and private employers must provide "reasonable" maternity disability leave.

Illinois

State employees are granted one year of parental leave and leave for serious family "dilemmas." There is no guarantee of job reinstatement after leave.

Iowa

Public and private employers with four employees or more must grant eight weeks unpaid maternity disability leave.

Kansas

Public and private employers with four employees or more must provide "reasonable" maternity disability leave.

Kentucky

Public and private employers must provide up to six weeks of leave for adoption of children seven and under.

Louisiana

Public and private employers with more than 26 workers must provide up to four months unpaid maternity disability leave.

Maine

Public and private employers with 25 employees or more must provide full-time employees with up to eight weeks leave over a period of two years for birth, adoption or serious illness of employee or family member.

Maryland

State employees may be granted up to twelve weeks leave for birth, adoption or illness of a family member.

FAMILY LEAVE: ALIVE IN THE STATES

The federal effort may be stalled, but many states already have some form of it, and others may soon follow suit.

By Kathleen Sylvester

It began as a fairly narrow legal debate over employment rights for women returning to work from maternity leave. It has evolved into a broad policy debate about "family leave"—the notion that both men and women should be able to take unpaid leave to care for newborn or newly adopted children or for children, parents, spouses or unmarried partners who are ill.

Congress wrestled for a number of years with the idea of a national Family and Medical Leave Act, and eventually approved a plan requiring businesses with more than 50 workers to allow employees to take up to 12 weeks of unpaid family or medical leave, guaranteeing them their previous jobs or equivalent positions upon their return to work. Although the bill was vetoed last fall by President Bush, many states had already enacted similar laws. At least 12 states and the District of Columbia now mandate some form of parental or family leave for public or private employees, and 34 legislatures considered such bills last year.

Donna Lenhoff, director of legal policy for the Women's Legal Defense Fund, says the coalition lobbying for family leave in Congress "is not willing to concede that we've lost at the federal level," but at the same time, she predicts that "there will be all the more initiative at the state level."

There will also be more opposition. Led by the U.S. Chamber of Commerce and the National Federation of Independent Business, the business community lobbied strenuously against the congressional proposal, arguing that government has no right to mandate employee benefits that are more properly the subject of management and labor negotiations. It also suggested that such mandated benefits are too expensive for small businesses and could make larger businesses less competitive.

Most of the state legislation developed in tandem with the federal legislation during the 1980s, as the profile of the American family changed and it became clear that the stay-at-home spouse who could care for young children, seriously ill family

members and elderly parents was a luxury most families could not afford.

In 1987, a U.S. Supreme Court decision galvanized support in the states by clarifying an important legal question about employment benefits, which are governed by Title VII of the Civil Rights Act of 1964. In 1975, Congress had amended Title VII to stipulate that discrimination includes discrimination because of pregnancy. Thus, while Title VII clearly prohibits employers from discriminating on the basis of pregnancy, it was unclear whether a state law could require benefits that discriminate in favor of pregnant women.

The Supreme Court addressed that question in its decision in *California Federal Savings & Loan v. Guerra*. In a case involving Lillian Garland, who was denied reinstatement at a savings and loan after a maternity leave, the court ruled that a California law requiring the state's employers to provide unpaid leave and job reinstatement to employees disabled by pregnancy was not inconsistent with civil rights laws. After that decision, says Lenhoff, "the states began to look closely at

maternity leave policy."

The second element that spurred states to pass family leave laws was, oddly enough, the result of a division among feminists. Almost as soon as states began debating maternity leave policies, it became clear that "maternity leave" could cause a backlash. If women of child-bearing age were granted any benefit or right not also available to men and other women in the work force, it could be held against them.

Wholesome feminists urged women to assert this new right, others argued that it would be more prudent not to. It was resolved, says Lenhoff, by a compromise: Make the

bills gender-neutral and expand them beyond newborns and newly adopted children to other types of family needs, such as seriously ill children



Lillian Garland (center) brought the California court case that galvanized state support for family leave laws.

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THE LEGISLATURE

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Mary Van Nimwegen

HB 78, 2/12/91 minutes

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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Maryland

State employees may be granted up to twelve weeks leave for birth, adoption or illness of a family member.

Massachusetts

Private employers with five or more employees are required to provide eight weeks unpaid leave to female workers for the birth or adoption of a child under three years of age.

Minnesota

Private employers with more than twenty employees must provide six weeks unpaid leave for birth or adoption to all employees who have worked at least 20 hours per week for one year.

Missouri

State employees are provided with equitable birth and adoption leave. There is no guarantee of job reinstatement.

Montana

Public and private employees are entitled to "reasonable" maternity disability leave.

New Hampshire

Public and private employers with more than five employees must provide "reasonable" unpaid pregnancy disability leave.

New Jersey

All public and private employers must provide short-term pregnancy disability leave. Those with 100 or more employees must provide 12 weeks leave over two years for birth, adoption or serious health condition of family member.

This coverage extends down to employers with 50 or more employees by May 1993.

New York

Public and private employers must provide short-term pregnancy disability leave. Private employers must provide the same leave for adoption as for birth.

North Carolina

State employees are entitled to pregnancy disability leave.

North Dakota

State employees are provided with up to four months leave each year for birth, adoption or family illness.

Oklahoma

State employees are provided with an unspecified amount of leave for birth, adoption or family illness.

Oregon

Public and private employers with at least 25 employees must provide 12 weeks leave per child for birth or adoption of a child under age six.

Pennsylvania

State employees are provided with six months leave for birth or adoption and five days leave for illness of a family member. Private employers are required to provide equal leave for birth and adoption.

Tennessee

State and private employers with more than 100 employees must provide up to four months of unpaid pregnancy disability leave.

Vermont

Private employers with 10 or more employees must provide 12 weeks of pregnancy disability leave per year.

Washington

Public and private employers with at least 100 employees must provide 12 weeks over two years for birth, adoption or terminal illness of a child under age 18.

West Virginia

State employees are provided with 12 weeks leave for birth, adoption or illness of a family member.

Wisconsin

Public and private employers with at least 50 employees are provided with six weeks of family leave per year for birth, adoption or the illness of a family member and two weeks per year for the employee's serious illness.

FAMILY LEAVE: ALIVE IN THE STATES

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By Kathleen Sylvester

It began as a fairly narrow legal debate over employment rights for women returning to work from maternity leave. It has evolved into a broad policy debate about "family leave"—the notion that both men and women should be able to take unpaid leave to care for newborn or newly adopted children or for children, parents, spouses or unmarried partners who are ill.

Congress wrestled for a number of years with the idea of a national Family and Medical Leave Act, and eventually approved a plan requiring businesses with more than 50 workers to allow employees to take up to 12 weeks of unpaid family or medical leave, guaranteeing them their previous jobs or equivalent positions upon their return to work. Although the bill was vetoed last fall by President Bush, many states had already enacted similar laws. At least 12 states and the District of Columbia now mandate some form of parental or family leave for public or private employees, and 34 legislatures considered such bills last year.

Donna Lenhoff, director of legal policy for the Women's Legal Defense Fund, says the coalition lobbying for family leave in Congress "is not willing to concede that we've lost at the federal level," but at the same time, she predicts that "there will be all the more initiative at the state level."

There will also be more opposition. Led by the U.S. Chamber of Commerce and the National Federation of Independent Business, the business community lobbied strenuously against the congressional proposal, arguing that government has no right to mandate employee benefits that are more properly the subject of management and labor negotiations. It also suggested that such mandated benefits are too expensive for small businesses and could make larger businesses less competitive.

Most of the state legislation developed in tandem with the federal legislation during the 1980s, as the profile of the American family changed and it became clear that the stay-at-home spouse who could care for young children, seriously ill family

members and elderly parents was a luxury most families could not afford.

In 1987, a U.S. Supreme Court decision galvanized support in the states by clarifying an important legal question about employment benefits, which are governed by Title VII of the Civil Rights Act of 1964. In 1975, Congress had amended Title VII to stipulate that discrimination includes discrimination because of pregnancy. Thus, while Title VII clearly prohibits employers from discriminating on the basis of pregnancy, it was unclear whether a state law could require benefits that discriminate in favor of pregnant women.

The Supreme Court addressed that question in its decision in *California Federal Savings & Loan v. Guerra*. In a case involving Lillian Garland, who was denied reinstatement at a savings and loan after a maternity leave, the court ruled that a California law requiring the state's employers to provide unpaid leave and job reinstatement to employees disabled by pregnancy was not inconsistent with civil rights laws. After that decision, says Lenhoff, "the states began to look closely at maternity leave policy."

The second element that spurred states to pass family leave laws was, oddly enough, the result of a division among feminists. Almost as soon as states began debating maternity leave policies, it became clear that "maternity leave" could cause a backlash. If women of child-bearing age were granted any benefit or right not also available to men and other women in the work force, it could be held against them.

Wholesome feminists urged women to assert this new right, others argued that it would be more prudent not to. It was resolved, says Lenhoff, by a compromise: Make the

bills gender-neutral and expand them beyond newborns and newly adopted children to other types of family needs, such as seriously ill children



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and parents. This "maternity leave" became "parental leave" and then "family leave." And when it was no longer solely a women's issue, it gained broader support—from labor unions, from senior citizens' groups, from gay rights groups and from the education community.

Six months after the *Cal Fed* decision, Rhode Island became the first state to pass a family leave law, soon followed by a number of other states.

The most important requirement in these laws is the job guarantee. And while some states have debated the idea of requiring paid leaves or changing their disability laws to require some insurance benefits, none of those proposals has passed. Many allow continuation of benefits such as health insurance, although most require employees to pay the premiums.

Beyond that, there is little uniformity in the laws. While advocates have focused on job guarantees, the length of leave and maintenance of health benefits, business groups have been most concerned about the number of employees covered and the circumstances under which employees may take leave. The result has been a wide variety of compromises.

In some states, such as Illinois, Maryland, North Dakota, Oklahoma and West Virginia, these laws are limited to state employees. Laws in other states apply to the private sector as well.

The other important distinction is whether the laws provide for "parental" leave or "family" leave. In Minnesota and Oregon, for instance, public and private employees may take unpaid leave for the birth or adoption of a child. In Washington state, parental leave extends to caring for a child with a serious illness.

Other state laws, including those in Connecticut, Maine, New Jersey, Oklahoma, West Virginia and Wisconsin, provide for full-fledged family leave, which also includes the right to take off to take care of a sick parent or

spouse. The broadest legal definition of family leave in the country is in the District of Columbia, whose law provides up to four months of unpaid leave to care for any "family member," including distant relatives, gay partners and intimate friends sharing the same address.

The state laws also differ widely on the size of employers exempted, from those with fewer than 21 employees in Minnesota to 100 in Washington to 250 in Connecticut, where the exemption will be phased down to 75-employee firms by 1993. "The two provisions constantly traded off are the small-employer exemption and the number of weeks of leave," says Lenhoff. The most generous leave provision is in Illinois,

where state employees can take parental leave as long as one year, but most states have opted for 12 weeks.

Janice Steinschneider, an attorney who follows the issue for the Washington, D.C.-based Center for Policy Alternatives, thinks that more states will pass parental or family leave laws, but by increments. Most states, she predicts, will pass limited laws and expand them if their experience is good.

A NUMBER OF STATES DID just that last year. Rhode Island expanded its original law permitting employees to take leave to care for newborn or adopted children or sick family members. It now allows workers to use unpaid leave for their own illnesses when other leave is exhausted. Maine rescinded the sunset provision that would have ended its law last year, and Connecticut expanded the scope of its law. The state's original 1988 law covered only state employees, but legislators widened it after a study showed that fewer than 1 percent of state workers used the leave and that costs were lower than expected.

The majority of such proposals failed in their legislatures: three were vetoed by governors. In Illinois, a bill to expand the existing family leave law to

private employers was vetoed by then-Governor James R. Thompson. In California, where there is only a pregnancy leave requirement, then-Governor George Deukmejian vetoed a family-leave bill. And Iowa Governor Terry Branstad vetoed a bill to allow 12 weeks of unpaid parental leave for state employees who have newborns or newly adopted children. "We were just trying to get a foot in the door," says Representative Michael Peterson, a Democrat who sponsored the bill.

Peterson says Iowa proponents cited a two-year-old General Accounting Office study indicating that a 10-week unpaid family-leave law cost employers about \$5 per year per employee because temporary replacements are provided for only about one-third of workers who take leave. But Iowa business groups, although not directly affected by the bill, argued that it would be costly and would eventually be extended to the private sector. And Branstad took the position that employee benefits are more properly the subject of collective bargaining than government mandates. Peterson says supporters tried to take these concerns into account, and reintroduced the bill this session with a provision for tax credits for businesses that voluntarily adopt unpaid parental leave policies.

Stephen Woods of the National Federation of Independent Business acknowledges concern that the defeat of the federal legislation will galvanize state efforts this year. He says expanding the eligibility for parental or family leave will increase support but says it will also strengthen opposition in the business community. "While public opinion polls show broad support for this," says Woods, "there is not a crying need for it; there are so few people affected." He predicts that wholesale changes are a long way off.

One scenario could change that, however. Steinschneider points out that about half of the states without parental or family leave laws do have laws that require limited leaves for maternity-related disability. Like the California law upheld by the Supreme Court in 1987, these laws guarantee women unpaid maternity leaves on reinstatement. If a father were to challenge one of those laws in court, says Steinschneider, "I think that he would win."

One important distinction of the current crop of state laws is whether they provide for 'parental' or 'family' leave.

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Mary Van Nimwegen

HB 78, 2/12/91 minutes

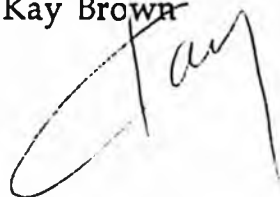
Kay Brown

Alaska State Legislature House of Representatives

TO: ✓ Representative Georgianna Lincoln
Representative Pat Carney
Co-Chairs, House HESS Committee

FROM: Representative Kay Brown

DATE: March 14, 1991



In case you missed the article about one working women's struggle between her job and taking care of her sick child, I attach the story which appeared in yesterday's edition of the *Anchorage Daily News*.

This true story has particular relevance to legislation I introduced, HB 78 (pending in the HESS Committee), which would implement a policy of family and medical leave.

Attachment

P. O. Box 20-2661
Anchorage, AK 99520-2661
(907) 272-0207

During Session:
P. O. Box V
Juneau, AK 99811
(907) 465-4998

Fired mother wins jobless benefits

Knight-Ridder Newspapers

ST. PAUL, Minn. — A woman who was fired for excessive absenteeism due to her need to care for her sick child is entitled to unemployment compensation benefits, the Minnesota Court of Appeals ruled Tuesday.

In a 2-1 decision, an Appeals Court panel reversed the state Department of Jobs and Training, which had denied benefits to Diane McCourtney of Richfield, Minn.

McCourtney, 32, was absent from her job as an accounts payable clerk with Seagate Technology in Minnetonka, Minn., about half the time from January to April of 1990.

She stayed home to care for her son, James, who was born on Sept. 30, 1989. The child suffered from many respiratory and other illnesses. Seagate fired McCourtney on May 1, 1990. Her lawsuit did not contest the firing.

"Each of McCourtney's absences was excused and was due to circumstances beyond her control," Judge Thomas Kalitowski wrote for the majority.

McCourtney had worked for Seagate, a manufacturer of computer disc drives, formerly Imprimis Technology before it was sold by Control Data Corp., for 10½ years. She had been an excellent employee until 1990, Kalitowski said in

the opinion.

The majority said. McCourtney made substantial efforts to find day care, but checks with many companies turned up only one that would care for a sick child. Martha Ballou, one of McCourtney's attorneys, said her client started work at 6:30 a.m., and services from that day care company were not available until later in the morning. The firm also charged about \$100 a day — twice McCourtney's take-home pay, she said.

"She was truly desperate, placed in a position of choosing between her child and her job," Ballou said. She called the court's opinion "a great victory."

KIDPAC

A Voice for Children

POSITION PAPER CSHB 78

ALASKA FAMILY LEAVE PROTECTION ACT FOR PUBLIC EMPLOYEES

Kuwait was the 119th and South Africa the 120th country that enacted a parental leave bill for families. The U.S. is the only industrialized country which does not have a public policy speaking to the needs of working families and their dependents.

Despite national inaction, many states provide for family leave, paid and unpaid.

"A society is judged by how it cares for it's young and it's old." CSHB 78 addresses, for public employees, these two ends of the spectrum.

As public policy, a number of programs have been instituted to keep older Alaskans in this state. Twenty years ago less than 2 percent of our population was 65 years or older. Yearly this figure grows. We are all the richer for encouraging this diversity of age in our young state.

As Alaska policy, programs to assist working parents, including the Day Care Assistance Program which was the first of it's kind in the nation, were instituted.

Passage of CSHB 78 would link these two populations in yet a different fashion, and still protect families. It would allow for unpaid leave of up to 18 weeks for the birth or adoption of a baby in a 12 month period, or for illness in the family, 18 weeks in 24 months.

There is a very real possibility that passage of the Alaska Family Protection Act would not only enhance families caring for themselves, but could save the state money.

For instance, a young, state, clerical woman has a baby. Her husband is a student. Her state check is their only income. They are eligible for 100% subsidy for infant care. The current state payment for infants would be about \$2,000 for this 18 week period. Multiply this figure by the number of state employees who are eligible for this subsidy and the savings become substantial.

Infant care is the hardest of all child care to find, research is abundant about the need for family bonding, and developmentally appropriate care during these critical first four months is well documented.

Yet we know, that the fastest growing new entrants into the labor market are young women in the child bearing years. As the state with the youngest population, the second highest fertility rate, and the second highest educational attainment, we can expect the need for infant care to increase, and increase even more dramatically than it has over this past decade.

The prestigious National Academy of Sciences, in WHO CARES FOR AMERICAN'S CHILDREN called for "the federal government should mandate unpaid, job-protect leave, with continued health benefits for employed parents of infants up to 1 year of age" (p.311-313) as a short term policy and "paid leave with partial income replacement for up to 6 months and unpaid leave for up to an additional 6 months, with job-related health benefits and job guarantees during the year" as a long term policy.

CSHB 78 does not go nearly as far in it's protection as the recommendation of the National Academy of Sciences.

Support for CSHB 78 is a support for families, young, middle aged and seniors. It is a protection for babies, the elderly and the very ill.

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 19, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: _____

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 78

HOUSE BILL NO. 78

MATERNITY/ADOPTION/FAMILY LEAVE

"An Act relating to employment rights based on pregnancy, childbirth, and related conditions, sick leave, and family leave."

RECOMMENDATIONS:

be replaced with _____ [] the same title

[] have attached amendments(s) [] a new title

[] do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

[] zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
Bettye Davis	Cheri Davis		-	
	Patricia King		✓	
			✓	

[Handwritten Signature]
Chairman's Signature

STATE OF ALASKA
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Mary Van Nimwegen

2/12/91 House Labor & Commerce
2/14/91 House Labor & Commerce

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 165-3991
Fax: (907) 163-3351

March 15, 1991

MAR 15 1991

MEMORANDUM

TO: Representative Kay Brown

FROM: Maria Gladziszewski *MG*
Legislative Analyst

RE: Parental Leave Policies in Alaska: An Update
Research Request 91.158

You asked this agency to update a table from a memorandum on parental leave policies in Alaska prepared in 1987 by the House Research Agency (87.079). You also asked for an update of a paper entitled "Parental Leave Data," prepared by the Alaska Department of Labor in January 1990.

Tables One and Two provide information on the parental leave policies of ten public and ten private employers in Alaska. Attached to this memorandum is "Parental Leave Data," updated by the Department of Labor's Research and Analysis section on February 4, 1991.

Only one of the 20 employers that we contacted, retail clerks represented by the United Food and Commercial Workers Union, has a formal policy for *family leave*. This contract allows men and women four weeks of leave to care for a new or seriously ill child, spouse or parent.

Only three of the 20 employers that we contacted, Alascom employees represented by the Teamsters Union, the Bristol Bay Borough and the Sealaska Corporation, have formal *parental leave* policies. These employers have specified that mothers or fathers can request six to 52 weeks of leave for the birth or adoption of a child.

All employers we contacted, except for the City & Borough of Juneau and the Anchorage Times, have formal policies for *maternity leave*. Time allowed for maternity leave varies from six weeks to one year.

Including the two employers with formal parental leave policies and the one employer with a formal family leave policy, eight of the 20 employers we contacted have formal policies for *adoption leave*. Time off allowed for adoption of a child varies from two to 26 weeks.

Legislative Research

Representative Brown
March 15, 1991
Page 2

Including the two employers with formal parental leave policies (excluding the employers that allow only one day for paternity leave) and the one employer with a formal family leave policy, seven of the 20 employers we contacted have formal policies for *paternity leave*. Time allowed varies from one to 26 weeks.

* * * * *

I hope this information is useful for your purposes. Please do not hesitate to contact this agency if you have additional questions.

Attachments

**TABLE ONE
PREGNANCY AND PARENTAL LEAVE POLICIES OF TEN PUBLIC EMPLOYERS IN ALASKA**

EMPLOYER	APPLICABLE POLICY	NUMBER OF WEEKS ALLOWED	COMPENSATION DURING LEAVE	RETURN RIGHTS	COMMENTS
Alaska, State of (GGU employees represented by ASEA)	maternity leave	9	sick, annual, then LWOP	yes	Additional leave may be granted for extenuating circumstances.
Anchorage, Municipality of	maternity leave	6	sick leave or medical LWOP	yes	Additional approved annual leave or LWOP may be requested. The city negotiates with five to six organizations. Differences exist among contracts.
Anchorage School District (employees represented by the AEA)	maternity leave	6 if natural	sick leave	yes	Time may be extended if complications develop.
	paternity leave	8 if Caesarean 1 day	sick leave	yes	
Bristol Bay Borough	parental leave	12	annual leave, then LWOP	yes	Employees are encouraged to leave one month prior to birth. An additional 12 weeks (medical leave) may be granted at the discretion of the borough manager. During medical leave the borough pays for medical and life insurance coverage.
Juneau, City & Borough of	none				The borough has no policy for pregnant workers. Employees may use personal leave for any reason. Time allowed and return rights depend on accrued leave balance, time of year, and degree to which the employee's presence is critical. Other employees may donate their leave if recipient is too ill to work and has exhausted personal leave balance.
Juneau - Bartlett Memorial Hospital (workers represented by the Longshoreman's Union)	maternity leave	52	personal leave, then LWOP	yes (see comments)	If the employee returns within 12 weeks or the length of paid leave, whichever is greater, she is guaranteed return to the same unit and shift. Management will make a 'good faith effort' to hold the employee's same position for six weeks. If, taking into account patient care needs, the position must be filled, the employee will be notified one week in advance and given the opportunity to return to work.
	paternity & adoption leave	26	personal leave, then LWOP	yes (see comments)	
Juneau School District (employees represented by the JEA)	maternity leave	varies	sick leave or LWOP	yes	Length of time determined by employee and her physician.
	adoption leave	2	sick leave or LWOP	yes	
Fairbanks North Star Borough	maternity leave	13	personal leave, then LWOP	yes	Leave may be extended an additional 12 weeks with a physician's statement. Employee is covered by medical benefits while on maternity leave, and there is no loss of service time.
	paternity leave (informal)	4	personal leave, then LWOP	yes	
Matanuska - Susitna Borough	maternity leave	8	sick, annual, then LWOP	yes	Paternity leave is available only to full-time employees.
	paternity leave	1	sick, annual, then LWOP	yes	
North Slope Borough	maternity leave	9	personal leave, then LWOP	yes	Leave period may be extended with a physician's statement.
	paternity leave (informal)	2	personal leave, then LWOP	yes	

NOTES: LWOP = leave without pay;

Parental leave guarantees men and women time off to care for a newborn or newly adopted child; may include care for a seriously ill child.

Some employers, such as the State of Alaska and the Municipality of Anchorage, allow employees to use leave for paternity or adoptive purposes but do not specify a guaranteed number of days or weeks that may be used.

SOURCE: Telephone interviews conducted in February and March 1991.

Prepared by the Legislative Research Agency, March 1991 (91.158A).

**TABLE TWO
PREGNANCY AND PARENTAL LEAVE POLICIES OF TEN PRIVATE EMPLOYERS IN ALASKA**

EMPLOYER	APPLICABLE POLICY	NUMBER OF WEEKS ALLOWED	COMPENSATION DURING LEAVE	RETURN RIGHTS	COMMENTS
Alascom (non-represented employees)	maternity leave	6 - 8	allowable absence (sick) leave, short-term disability, vacation, LWOP	yes	Maternity leave granted based on medical statement from physician; may be extended with a physician's recommendation.
Alascom (employees represented by the Teamsters Union)	maternity leave	6 - 8	same as maternity leave above	yes	Same as maternity leave above.
	parental leave	52	vacation leave, then LWOP	yes	
Alaska Airlines (workers represented by the Int'l Assoc. of Machinists & Aerospace Workers Union)	maternity leave	12	sick leave, then LWOP	yes	Those represented include most of Alaska Airlines' employees in Alaska (reservation and ticket agents, ramp and fleet service workers, mechanics). An employee may apply for a 30-day extension of maternity leave.
	adoption leave - personal leave	12	LWOP	yes	
Anchorage Times	none				Maternity leave handled on an individual basis. The employer attempts to accommodate pregnant employees but leave and return rights not guaranteed.
Arco	leave for pregnancy	25	sick, then disability, then dependent care LWOP	yes (see comments)	Pregnant employees must leave job site at 34th week. Return rights are guaranteed for the same job, same pay if employee returns within 12 weeks; similar job, similar pay are guaranteed if return within six months.
National Bank of Alaska	medical leave	6 if natural, 8 if Caesarean	sick leave, then annual leave, then LWOP	yes	Employer would consider extending leave upon receipt of physician statement regarding medical necessity. Return rights guaranteed but not necessarily to the same position.
	paternity leave	1 day		yes	
Providence Hospital	maternity leave - medical leave of absence	26	sick leave, then paid time off, then LWOP	yes	Medical leave of absence can be taken until a physician releases the employee without medical restrictions. Leave is usually six weeks for a normal birth, eight weeks for Caesarian. Fathers are not granted leave for natural births.
	adoption leave - emergency leave of absence	26	sick leave, then LWOP	yes (see comments)	
Retail clerks (represented by the United Food & Commercial Workers)	maternity leave	13	sick leave, then LWOP	yes	Leave may be extended to six months.
	family leave	4	LWOP	yes	Guarantees men and women time off to care for a new or seriously ill child, spouse or parent.
Sealaska Corporation	parental leave	6 - 12	sick, then annual, then LWOP	yes	Length of time varies, determined between the employee and the Vice-President of Administration; includes adoption of a child.
	temporary disability	varies	LWOP	yes	Applies to extended illness or pregnancy, and a doctor's certificate is required. Sealaska has held a person's job for as long as one year (in the case of the birth of underweight twins).
Tanana Chiefs Conference	maternity leave	3 weeks before 6 - 8 weeks after	sick, annual, disability, then LWOP	yes	No formal policy for parental or adoption leave but employees can submit written requests for extended LWOP; up to 52 weeks has been granted.

NOTES: LWOP = leave without pay;

Parental leave guarantees men and women time off to care for a newborn or newly adopted child; may include care for a seriously ill child.

SOURCE: Telephone interviews conducted in February and March 1991.

Prepared by the Legislative Research Agency, March 1991 (91.158B).

PARENTAL LEAVE DATA
Updated 2/4/91

Number of Firms and Employees Affected by Parental Leave Legislation

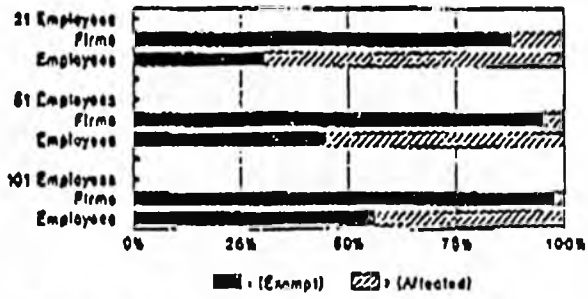
The most recent employment history for each firm that had workers in May of 1990 was extracted for analysis. Second quarter 1990 data is the most recent complete quarter of information currently available. Monthly employment figures for each firm were analyzed in order to identify firms that had 21 or more, 51 or more, and 101 or more employees during each month of any five month period in 1989 and the first six months of 1990.

Although Table 1 provides a close approximation of the firms likely to be affected by parental leave legislation, the number of employees eligible for parental leave would be significantly fewer than the total number of people employed by those firms. Duration of employment restrictions and actual need for parental leave would dramatically reduce the affected employee population.

Table 1 shows the number of employees and firms in the Alaska private sector and local government sector by size of firm. Approximately 70 percent of all employees work for firms with 21 or more employees. These firms comprise approximately 12 percent of all employers that had employees during May of 1990. If the size of firm affected were raised to 101 employees or more, approximately 229 private sector firms and 44 percent of Alaska's private sector wage and salary workers would be affected.

Table 1			
Number of Firms and Employees by Size of Firm Based Upon Alaska Employment for May 1990			
	Private Sector		Local Govt.
	Firms	Employees	Employees
20 or Fewer Employees	8,290	46,740	1,337
21 or More Employees	1,164	107,087	29,033
50 or Fewer Employees	8,980	68,871	3,109
51 or More Employees	474	84,956	27,261
100 or Fewer Employees	9,225	86,267	4,621
101 or More Employees	229	67,550	25,749
Source: Alaska Department of Labor, Research and Analysis. Prepared 2/4/91			

Alaska Private Sector Firms and Employees-% Exempt from and Affected by Parental Leave by Size



Source: Alaska Department of Labor
Research and Analysis

Alaska State Legislature



Legislative Research Agency

P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 163-3991
Fax: (907) 163-3351

February 4, 1991

MEMORANDUM

TO: Representative Kay Brown

FROM: Maria Gladziszewski *MG*
Legislative Analyst

RE: Family and Parental Leave Statutes in Other States
Research Request 91.133

You asked this agency if any states have passed family or parental leave legislation since February 1990, when a memorandum on family and parental leave prepared by the House Research Agency (89.320) was updated by this agency (90.252). Attached is an updated version of Table 1 from the 1990 memorandum.

Effective July 1990, Rhode Island extended its parental leave law to include family and medical leave. Employees can now use 13 weeks every two years of leave not only for the care of a newborn, newly-adopted or ill child (parental leave), but also for the care of a seriously ill parent, spouse, or child (family leave) or for the illness of the employee (medical leave).

Effective April 1991, employers with 50 or more employees in the District of Columbia must provide up to 16 weeks of family leave and 16 weeks of medical leave. "Family" is defined broadly to include persons related by blood, legal custody, marriage, or that are persons with whom the employee shares a residence within the context of a committed relationship. Employers with 20 or more employees are subject to the provisions of this law beginning in 1994.

According to the National Conference of State Legislatures (NCSL), the governors of California and Iowa vetoed parental leave bills and the governor of Illinois vetoed a family leave bill in 1990. The California law would have guaranteed 16 weeks of parental leave every two years to workers employed in companies with 25 or more employees; the Iowa law would have guaranteed parental leave to state employees; the Illinois law would have guaranteed eight weeks of family leave every two years.

Attached are more detailed explanations of family and medical leave laws in other states. Attachment A, prepared by the National Conference of State Legislatures (NCSL) on October 1, 1990, is a summary of parental and family leave bills introduced in the 1990 legislative sessions. Attachment B, prepared by the Women's Legal Defense Fund (addendum dated October 1, 1990), is a summary of state laws guaranteeing employees their jobs after family and medical leaves. Telephone conversations with NCSL and Women's Legal Defense

Representative Brown
February 4, 1991
Page 2

Fund representatives confirm that these documents are the most current available.

I hope you find this information useful. If you have any additional questions, please do not hesitate to contact this agency.

Attachments

**TABLE 1
STATES WITH STATUTORY PROVISIONS FOR FAMILY, PARENTAL, OR MEDICAL LEAVE**

Family leave guarantees men & women time to care for a new child or seriously-ill child, spouse, or parent.
 Parental leave guarantees men & women time to care for a newborn or newly-adopted child; may include care for a seriously ill child.
 Medical leave guarantees time off for an employee's own serious health condition (including pregnancy and childbirth).

STATE	PURPOSES	WEEKS ***	EMPLOYERS COVERED	EFFECTIVE DATE OF LEGISLATION
Connecticut Conn Gen Stat Sec 5-193	Family or medical leave	24/2 years	public sector	July 1988
Connecticut* 1989 Conn. Public Act 89-382	Family or medical leave	12/2 years (to be raised to 16 beginning 1991)	250+ employees	July 1990
	Family or medical leave	12/2 years (to be raised to 16 beginning 1992)	100-249 employees	July 1991
	Family or medical leave	12/2 years (to be raised to 16 beginning 1993)	75-99 employees	July 1992
DISTRICT OF COLUMBIA **	Family leave	16/2 years	50+ employees, 20+ employees after April 1994	April 1991
	Medical leave	19/2 years	50+ employees; 20+ employees after April 1994	April 1991
Maine Me. Rev. Stat. Tit. 26, Sections 843-49	Family or medical leave	8	25+ employees	July 1988
Minnesota Minn. Stat. Sec. 181.930-.980	Parental leave	8	21+ employees	August 1987
New Jersey*	Family leave	12/2 years	100+ employees; 75+ employees after May 1991; 50+ employees after May 1993	May 1990
North Dakota*	Family leave	16	state employees	not available
Oklahoma*	Family leave	To be specified by regulation	state employees	not available
Oregon Or. Rev. Stat. Sec. 659.010-.121 659.360-.370	Parental leave	12	25+ employees	January 1988
Pennsylvania*	Parental leave for birth or adoption of a new child	24	state employees	not available
	Medical leave	24	state employees	
Rhode Island RI ST 28-48-1 to 9	Parental leave; includes serious illness of a child	13/2 years	private sector, 50+ employees; public sector, 30+ employees; state employees	July 1987
RHODE ISLAND **	Family or medical leave	13/2 years	private sector, 50+ employees; public sector, 30+ employees; state employees	July 1990
Washington* Wash Rev Code Ch 49.12, secs 1-12	Parental leave; includes terminal illness of a child	12/2 years	state employees, local governments, 100+ employees; private sector, 100+ employees	September 1989
West Virginia* 1981 Ch. 21, Art. 5D	Family leave	12	state employees	July 1989
Wisconsin Sec. 103.10, Stats	Parental leave	8	50+ employees	April 1988
	Family leave for serious illness of family member	2	50+ employees	
	Medical leave	2	50+ employees	

NOTES:

* These states were added to this table in February 1990; legislation passed between March 1989 and February 1990.

** The District of Columbia (DC) & Rhode Island were added to this table in January 1991.

The Rhode Island legislation extends its parental leave law to include family and medical leave.

The DC legislation defines "family" broadly to include persons related by blood, legal custody, marriage, or that are persons with whom the employee shares a residence within the context of a committed relationship.

*** All leave is unpaid.

-- In 1987 the California legislature enacted a bill that would have required employers with 25 or more employees to allow employees 16 weeks parental leave every two years. The bill was vetoed by Governor Deukmejian.

-- In 1988 the California legislature enacted a bill that would have required employers with 25 or more employees to allow employees with one year of service and eligible for other benefits 16 weeks parental leave every two years. The bill was vetoed by the Governor in September 1990.

-- In April 1990 the Iowa legislature enacted a parental leave bill for state employees. The bill was vetoed by the Governor in May 1990.

-- In June 1990 the Illinois legislature enacted a bill that would have required employers to allow 8 weeks of family leave every 2 years. The bill was vetoed.

SOURCES: Women's Legal Defense Fund; National Conference of State Legislators.

Prepared by the House Research Agency, March 1989 (89-320A).

Revised by the Legislative Research Agency, February 1990 (90-252A).

Revised by the Legislative Research Agency, February 1991 (91-133A).

Rep. Kay Brown
March 18, 1991

CS HOUSE BILL 78 (L&C)
Alaska Family Protection Act

An Act relating to employment rights based on pregnancy, childbirth, and related conditions, sick leave and family leave.

SECTION 1 Short title.

SECTION 2 Findings and purpose.

SECTION 3 (Relates to teachers) A school district can notify a teacher of nonretention for a permissible reason even if the teacher is on family leave.

SECTION 4 (Relates to teachers) A teacher who is on family leave must comply with the 30-day deadline to accept reemployment for the following school year.

SECTION 5 (Relates to teachers) Leave provisions provided in this bill apply to negotiations agreements unless the leave provisions in the agreements are at least as beneficial to the employee, or unless the commissioner of education waives compliance.

SECTION 6 (Family leave provisions for union public employees)

Sec. 23.10.500 Employment benefits and privileges:

Stipulates length of employment required for employee to be eligible. Leave may be unpaid. Employee may substitute accrued paid leave or employer may require accrued paid leave to be substituted. An employer shall permit an eligible employee to take 18 workweeks of leave during any 24 month period because of serious health condition. An employer shall permit an eligible employee to take 18 workweeks of leave within a 12-month period because of pregnancy and childbirth or adoption. Leave may be taken: 1) because of pregnancy and birth or placement of adoption (in one time block); 2) care for serious health condition of employee's child, spouse or parent; and 3) employee's own serious health condition. Simultaneous leave disallowed for illness if both parents or siblings work for same employer. Explains how health coverage can be paid during leave. Restoration of same job upon return to work unless it's unreasonable or impossible for employer. Leave provisions apply only to employers with 21 or more employees within 50 road miles of the employment facility.

Sec. 23.10.510 Employee notice:

Employee shall provide reasonable and practicable notice to employer.

sectional analysis

Sec. 23.10.520 Employee transfer:

A pregnant employee may request a job transfer; terms of suitable positions; compensation of transfer.

Sec. 23.10.530 Application to other laws:

Leave provisions in this bill apply to collective bargaining contracts unless the leave provisions in the contracts are at least as beneficial to the employee. Commissioner of education may grant a waiver if hardship can be proven.

Sec. 23.10.540 Complaints:

Complaints to be filed with Department of Labor and investigated.

Sec. 23.10.550 Definitions:

Definitions of "child," "employer," "health care provider," "parent," "serious health condition," "small employment facility," and "state."

SECTION 7 (relates to union public employees) Leave provisions in this bill apply to labor agreements unless the leave provisions in the agreement are at least as beneficial to the employee.

SECTION 8 (State employees) Expands medical reason for personal leave to include adoption to conform with Section 6 requirements (current statute only provides for pregnancy and childbirth). Leave is available to male and female employees.

SECTION 9 (Family leave provisions for nonunion or exempt-position employees) Establishes requirements for family and medical leave. Employee shall use accrued paid leave toward the leave but can retain up to five days of accrued paid leave in their account. Remainder of leave time is unpaid. Employee shall provide notice to employer, disallows simultaneous leave, and definitions (similar to Section 6). State employees will also have to use their accrued paid leave toward their family and medical leave, but they can retain up to five days of accrued paid leave.

SECTION 10 (Railroad agreements) Leave provisions in this bill apply to labor agreements unless the leave provisions in the agreement are at least as beneficial to the employee.

SECTION 11 (Contracts) Current labor agreements or collective bargaining contracts are recognized and will remain status quo. However, when the contract or agreement expires, the bill's leave provisions apply unless the leave provisions in the contract or agreement are at least as beneficial to the employee. (Cross reference to Sections 5, 6, 7, and 10.)



Older Alaskans Commission

Box C
Juneau, Alaska 99811-0209
907/465-3250

COMMITTEE SUBSTITUTE FOR HOUSE BILL 78 (H L & C)

POSITION PAPER HOUSE BILL 78 -- ALASKA FAMILY PROTECTION ACT

The Older Alaskans Commission supports this bill. This bill is pro-family and pro-employee. This is also a cost-effective proposal for the public, since the alternative to family caregiving for the elderly is often expensive long-term institutional care, partially or fully at public expense.

Work place policies which accommodate caregivers' needs for leave or flex-time work make good management and business sense. In the case of caregivers to the elderly, the employee caregiver is usually over the age of forty, and is usually an experienced employee with a high replacement cost to the employer. Policies which encourage retention of the seasoned employee are a benefit to the business in the long run, despite what may seem to be an up front, short term additional cost.

Retaining experienced employees, and keeping them at their most productive functioning level will benefit employers. Numerous research studies have shown that full-time employee caregivers of the elderly provide 12 to 35 hours a week of care giving services to their family member. This is a considerable burden on the employee, which in turn results in decreased production at work, unscheduled absences, and increased costs to the employee health benefits program. (See Attachment A)

Under CS for House Bill 78, most major employers in Alaska would be required to start simultaneously to offer these new caregiver leave benefits. This is an equitable solution to a social problem, as all competitors in any field would be operating under the same public policy.

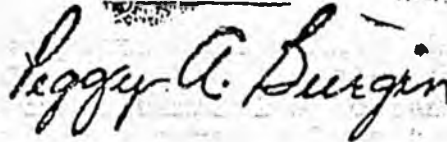
CS for House Bill 78 will benefit three groups of Alaskans:

- "...* the employees whose health and well-being are preserved ;
- * the employer who profits from their continuing productivity and their lower utilization of health care and other benefits; and
- * the dependents for whom the employee's support is essential."

(Employer Support for Employee Caregivers, The New York Business Group on Health, Inc., p. 2, Attachment B.)

We understand that the original bill, HB 78, has been changed in this Committee Substitute to limit the leave benefits to public employees only (all state, municipal, university and school employees). OAC supports this compromise and hopes that our experience with how family leave benefits work in the public sector will eventually put to rest the concerns of the business sector over the question of extending these family leave benefits to their employees as well.

The Older Alaskans Commission urges the Alaska Legislature to pass CS for House Bill 78.



Peggy Burgin, Chair
Older Alaskans Commission

February 28, 1991.

benefits program. (See Attachment A)

MAR 15 1991

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CS for HB 78

Revision Date: Department Affected: University of Alaska
Title: Alaska Family Protection Act BRU: Statewide Programs and Services
Sponsor: Brown Component: Component Serial No. All
Requestor:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
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						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)	FY92	FY93	FY94	FY95	FY96	FY97
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:	FY92	FY93	FY94	FY95	FY96	FY97
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.) The University of Alaska feels that its present employee leave regulations and financial procedures are adequate to comply with the intent of this bill without incurring significant cost increases.

Prepared by: Marsha Hubbard, Director
Division: Statewide Budget Office

Phone: 474-7593
Date: 3/11/91

Approved by: Brian Rogers, Vice President for Finance
Agency: University of Alaska

Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FN to Univ

B

HOUSE COMMITTEE REPORT

2-19-91

Hess

(7)

Date Referred: January 25, 1991

FURTHER REFERRALS: Health, Education and Social Services

Finance

Date of Committee Action: 2-14-91

The LABOR AND COMMERCE Committee considered:

HB 78

HOUSE BILL NO. 78

MATERNITY/ADOPTION/FAMILY LEAVE

"An Act relating to employment rights based on pregnancy, childbirth, and related conditions, sick leave, and family leave."

- RECOMMENDATIONS: CS HB 78(L+C) the same title
 be replaced with _____ a new title
- have attached amendments(s)
- do pass
- do not pass
- no recommendations
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note Labor

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<u>David Dandley</u>				
<u>Kevin Pat Parnell</u> Parnell			<input checked="" type="checkbox"/>	
<u>Betty Bruckman</u> Bruckman				
<u>Robert Finkelstein</u>				
<u>Robin L Taylor</u> TAYLOR		<input checked="" type="checkbox"/>		

L&C Comm. Rpt

[Signature] Finkelstein
Chairman's Signature 2/14/91

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB78

Revision Date: _____ Department Affected: Education
 Title: Employment rights based on pregnancy childbirth and related BRU: K-12 Support
 Component: Foundation
 Sponsor: Brown
 Requestor: House Labor & Commerce COMPONENT SERIAL NO.

	1	4	1
--	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 1/31/91
 Approved by Commissioner: Steve Hole, Acting Commissioner
 Agency: Education Date: 1/31/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSHB 78 (L&C)

Revision Date: _____

Department Affected: Administration

Title: Alaska Family Protection Act

BRU: Labor Relations

Sponsor: Brown

Component: Labor Relations

Requestor: _____

COMPONENT SERIAL NO.

0	0	5	8
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.) The enactment of HB 78 would create an additional leave entitlement for State employees beyond the present nine-week maternity leave and family illness provisions currently existing. This additional entitlement would be extended gratis, without any meaningful opportunity for the State to seek any quid pro quo through collective bargaining. Any new or renewed State employee contracts must contain at least these leave provisions; since the State cannot negotiate for lesser entitlements, no leverage for any substantive quid pro quo exists. It is impossible to forecast the fiscal impact of this proposal without some actual experience with utilization. However, as with most leave benefits, it can safely be assumed that absences will increase, and at least to some extent productivity will decrease. Since there can be no substantive bargaining on this issue, it will not directly increase the actual cost of the process itself.

Prepared by: Bruce Cummings
Division: Labor Relations

Phone: 465-4404
Date: February 27, 1991

Approved by Commissioner: Millett Keller
Agency: Administration

Date: 4/2/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO : No. 1
Bill Version: CSHB 78(L&C)
(H) Publish Date: 2/19/91

Revision Date: _____
Title: "An Act relating to employment
rights based on family leave."
Sponsor: Brown, et al.
Requestor: House Labor & Commerce

Department Affected: Labor
BRU: Labor Standards & Safety
Component: Wage & Hour

COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Robert W. Libbey, Director

Phone: 264-2452

Division: Labor Standards & Safety

Date: 2/12/91

Approved by Commissioner: Nancy Bear Usara 

Agency: Department of Labor

Date: 2/12/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO : HB 78

Revision Date: _____
Title: "An Act relating to employment rights based on ... family leave."
Sponsor: Brown, et al.
Requestor: House Labor & Commerce

Department Affected: Labor
BRU: Labor Standards & Safety
Component: Wage & Hour
COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	56.7	56.7	56.7	56.7	56.7	56.7
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	5.4	5.4	5.4	5.4	5.4	5.4
SUPPLIES	0.4	0.4	0.4	0.4	0.4	0.4
EQUIPMENT	1.2					
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	69.7	68.5	68.5	68.5	68.5	68.5

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	69.7	68.5	68.5	68.5	68.5	68.5
FEDERAL FUNDS						
OTHER						
TOTAL	69.7	68.5	68.5	68.5	68.5	68.5

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)
Under the provisions of this bill, the department would investigate alleged violations of the family leave law and attempt reconciliation. In order to do this, a Wage & Hour Investigator II located in Anchorage would be hired. This position would travel throughout the state to investigate the complaints. An effective date of July 1, 1991 is assumed.

Prepared by: Robert W. Libbey, Director *[Signature]* Phone: 264-2452
Division: Labor Standards & Safety Date: 2/5/91

Approved by Commissioner: Nancy Bear Usera *[Signature]*
Agency: Department of Labor Date: 2/5/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FX

Position Title Wage & Hour Investigator II			No. of Positions 1	Range/Step 18A	Barg. Unit GGU
Time Status PFT	Staff Months 12		Location Anchorage		Election District 99
Type of Expenditure			Justification		
		Amount	<p>This position would investigate alleged violations of the family leave law. The investigator would attempt to resolve violations by conference, conciliation, and persuasion.</p> <p>Travel costs would allow the investigator to cover complaints in all parts of the state.</p> <p>Contractual and commodity costs are average per-employee costs. Equipment would be a one-time expense for desk, chair, cabinets, etc.</p>		
1	2	3			
Salary	\$40,521				
Benefits	16,187				
Premium Pay					
Other					
Total Personal Services		\$56,708			
Travel		6,000			
Contractual		5,400			
Commodities		400			
Equipment		1,200			
Other					
Total Cost		\$69,708			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	\$69,708			
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Labor
 BRU Labor Standards & Safety
 Component Wage & Hour

Page 2 of 2
 Revised Date

FY 91

FEB 1 1991

7-LS0096D
Cramer
2/11/91

CS FOR HOUSE BILL NO. 78 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BROWN, Ulmer, Donley, Ellis, Koponen, Kubina, Finkelstein, Gruenberg, B.Davis, Bruckman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to employment rights based on pregnancy, childbirth, and related
2 conditions, sick leave, and family leave."

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

4 * Section 1. SHORT TITLE. This Act may be known as the Alaska Family Protection Act.

5 * Sec. 2. FINDINGS AND PURPOSE. (a) The legislature finds that

6 (1) generally, parents are the best providers of care for their children:

7 (2) the number of single-parent households and two-parent households in which the single
8 parent or both parents work outside the home is increasing significantly;

9 (3) it is important to the development of a child and to the family unit that parents be
10 able to participate in early childrearing and the care of a child who has a serious health condition:

11 (4) the lack of employment opportunities to accommodate working parents can force
12 individuals to choose between job security and parenting; and

13 (5) it is important for the family unit that a person be able to care for a parent or spouse
14 who has a serious health condition.

1 (b) The legislature declares that the purposes of this Act are

2 (1) to balance the demands of the workplace with the needs of families, and to promote
3 stability and economic security in families;

4 (2) to entitle employees to take reasonable leave for the birth or adoption of a child, for
5 the care of a child, spouse, or parent who has a serious health condition, and in case of their own serious
6 health condition; and

7 (3) to accommodate the legitimate interests of employers.

8 * Sec. 3. AS 14.20.140 is amended by adding a new subsection to read:

9 (c) Notwithstanding a teacher's right to continued employment under AS 23.10.500 -
10 23.10.550, a school district may notify a teacher of nonretention under this section for the
11 following school year for a permissible reason.

12 * Sec. 4. AS 14.20.145 is amended to read:

13 Sec. 14.20.145. AUTOMATIC REEMPLOYMENT. If notification of nonretention is not
14 given according to AS 14.20.140, a teacher is entitled to be re-employed in the same district for
15 the following school year on the contract terms the teacher and the employer may agree upon,
16 or if no terms are agreed upon, the provisions of the previous contract are continued for the
17 following school year, subject to AS 14.20.158. The right to be reemployed according to this
18 section expires if the teacher does not accept reemployment within 30 days after the date on
19 which the teacher receives a contract of reemployment. A teacher who is on family leave
20 under AS 23.10.500 - 23.10.550 must comply with the 30-day deadline in this section to
21 retain the teacher's reemployment rights under this section.

22 * Sec. 5. AS 14.20.590 is amended by adding a new subsection to read:

23 (b) Notwithstanding any provision of AS 14.20.550 - 14.20.610 to the contrary, unless
24 the commissioner of education has waived compliance with AS 23.10.500 - 23.10.550 under
25 AS 23.10.530(c), a negotiations agreement between an employer subject to AS 23.10.500 -
26 23.10.550 and an employee bargaining organization that does not contain benefit provisions at
27 least as beneficial to the employee as those provided by AS 23.10.500 - 23.10.550 shall be
28 considered to contain the benefit provisions of those statutes.

29 * Sec. 6. AS 23.10 is amended by adding new sections to read:

30 ARTICLE 8. PREGNANCY, CHILDBIRTH, AND FAMILY LEAVE.

31 Sec. 23.10.500. EMPLOYMENT BENEFITS AND PRIVILEGES FOR HEALTH AND

1 FAMILY CARE. (a) An employer shall grant an employee whose health is affected by
2 pregnancy, childbirth, or a related medical condition the same employment benefits and privileges
3 that the employer grants to other employees with similar ability to work who are not so affected,
4 including allowing the employee to take disability or sick leave or other accrued leave that the
5 employer makes available to temporarily disabled employees.

6 (b) An employee is eligible to take family leave if the employee has been employed by
7 the employer for at least 35 hours a week for at least six consecutive months or for at least
8 17 1/2 hours a week for at least 12 consecutive months immediately preceding the leave. The
9 leave may be unpaid leave. However, the employee may choose to substitute, or the employer
10 may require the employee to substitute, accrued paid vacation leave, sick leave, personal leave,
11 or other paid leave during this period. An employer shall permit an eligible employee to take
12 family leave because of a serious health condition for a total of 18 workweeks during any 24-
13 month period. An employer shall permit an eligible employee to take family leave because of
14 pregnancy and childbirth or adoption for a total of 18 workweeks within a 12-month period: the
15 right to take leave for this reason expires on the date one year after the birth or placement of the
16 child. If the employee is entitled to a longer period of time under (a) of this section, then the
17 longer period applies. An eligible employee is entitled to take family leave

18 (1) because of pregnancy and the birth of a child of the employee or the
19 placement of a child, other than the employee's stepchild, with the employee for adoption: an
20 employer may require that an employee using family leave under this paragraph take the leave
21 in a single block of time:

22 (2) in order to care for the employee's child, spouse, or parent who has a serious
23 health condition; in this paragraph, "child" includes the employee's biological, adopted, or foster
24 child, stepchild, legal ward, or a child to whom the employee stands in loco parentis; and

25 (3) because of the employee's own serious health condition.

26 (c) Notwithstanding (b) of this section, if a parent or child of two employees employed
27 by the same employer has a serious health condition, the employer is not required to grant family
28 leave to both employees simultaneously.

29 (d) During the time that an employee is on leave under this section, the employer shall
30 maintain coverage under any group health plan at the level and under the conditions that
31 coverage would have been provided if the employee had been employed continuously from the

1 date the leave began to the date the employee returns from leave under (e) of this section.
2 However, the employer may require that the employee pay all or part of the costs for maintaining
3 health insurance coverage during a period of unpaid leave.

4 (e) Unless the employer's business circumstances have changed to make it impossible
5 or unreasonable, when an employee returns from leave under this section, the employer shall
6 restore the employee

7 (1) to the position of employment held by the employee when the leave began:
8 or

9 (2) to a substantially similar position with substantially similar benefits, pay, and
10 other terms and conditions of employment.

11 (f) This section does not apply to an employer's small employment facility if the total
12 number of employees employed within 50 road miles of the small employment facility, including
13 those employed at the facility, was fewer than 21 during the 20 consecutive workweeks in which
14 the employer employed at least 21 employees at all business facilities.

15 Sec. 23.10.510. EMPLOYEE NOTICE. If the necessity for leave under AS 23.10.500
16 is foreseeable based on an expected birth or adoption or on planned medical treatment or
17 supervision, the employee shall provide the employer with prior notice of the expected need for
18 leave in a manner that is reasonable and practicable. If the necessity for leave under that section
19 is foreseeable based on planned medical treatment or supervision, the employee shall also make
20 a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the
21 operations of the employer, subject to the approval of the health care provider of the employee
22 or the employee's child, spouse, or parent.

23 Sec. 23.10.520. EMPLOYEE TRANSFER. (a) A pregnant employee may request a
24 transfer to a suitable position under this section. An employer may not fill the position with a
25 person other than the requesting employee until the employer has offered the position to the
26 employee and the employee has refused the offer. A position is suitable if

27 (1) it is an existing unfilled position in the same administrative division in which
28 the employee is currently employed and is less strenuous or less hazardous than the employee's
29 current position:

30 (2) transfer to the position is recommended by a licensed health care provider:

31 (3) the employee is qualified and immediately able to perform the duties of the

1 position: and

2 (4) the transfer will not subject the employer to legal liability under a collective
3 bargaining contract or employment contract.

4 (b) An employer shall compensate an employee who receives a transfer under this section
5 at a rate at least equal to the lesser of the rate, as adjusted by changes to compensation that apply
6 generally to the work force, at which

7 (1) the employee was compensated immediately before requesting the transfer;
8 or

9 (2) the position into which the employee transfers is compensated.

10 Sec. 23.10.530. APPLICATION TO OTHER LAWS. (a) The provisions of
11 AS 23.10.500 - 23.10.550 do not affect any other provision of law relating to sex discrimination,
12 pregnancy, or parenthood.

13 (b) The provisions of AS 23.10.500 - 23.10.550 are subject to collective bargaining.
14 However, except as provided in (c) of this section, a collective bargaining contract that does not
15 contain benefit provisions at least as beneficial to the employee as those provided by
16 AS 23.10.500 - 23.10.550 shall be considered to contain the benefit provisions of those statutes.

17 (c) The commissioner of education may approve a collective bargaining agreement
18 entered into between a school district or a regional educational attendance area and a bargaining
19 organization representing certificated employees that does not meet the leave requirements of
20 AS 23.10.500 - 23.10.550, if the district or attendance area establishes to the satisfaction of the
21 commissioner that a variance from the requirements of AS 23.10.500 - 23.10.550 is necessary
22 to avoid a hardship on the school district based on the lack of qualified, available substitute
23 teachers to replace teachers on leave under AS 23.10.500 - 23.10.550 or the lack of available
24 housing for replacement teachers who do not live in the community.

25 Sec. 23.10.540. INVESTIGATION AND CONCILIATION OF COMPLAINTS. (a) A
26 person aggrieved by a denial of a right or privilege granted by AS 23.10.500 - 23.10.540 may
27 file a complaint with the department.

28 (b) The department shall informally, promptly, and impartially investigate the matters set
29 out in a filed complaint. If the investigator determines that the allegations are supported by
30 substantial evidence, the investigator shall immediately try to eliminate the denial of rights or
31 privileges by conference, conciliation, and persuasion.

1 Sec. 23.10.550. DEFINITIONS. In AS 23.10.500 - 23.10.550.

2 (1) "child" means an individual who is

3 (A) under 18 years of age; or

4 (B) 18 years of age or older and incapable of self-care because of mental
5 or physical disability;

6 (2) "employer" means the state and a political subdivision of the state that
7 employed at least 21 employees in the state for each working day during any period of 20
8 consecutive workweeks in the preceding two calendar years;

9 (3) "health care provider" means a dentist licensed under AS 08.36, a physician
10 licensed under AS 08.64, or a psychologist licensed under AS 08.86;

11 (4) "parent" means a biological or adoptive parent, a parent-in-law, or a
12 stepparent;

13 (5) "serious health condition" means an illness, injury, impairment, or physical
14 or mental condition that involves

15 (A) inpatient care in a hospital, hospice, or residential health care facility;

16 or

17 (B) continuing treatment or continuing supervision by a health care
18 provider;

19 (6) "small employment facility" means a facility of an employer that did not
20 employ 21 or more employees during any period of 20 consecutive workweeks in the preceding
21 two calendar years;

22 (7) "state" includes the University of Alaska, the Alaska Railroad, and the
23 executive, legislative, and judicial branches of state government including public and quasi-public
24 corporations and authorities established by law.

25 * Sec. 7. AS 23.40.200 is amended by adding a new subsection to read:

26 (g) Notwithstanding any provision of AS 23.40.070 - 23.40.260 to the contrary, an
27 agreement between the employer subject to AS 23.10.500 - 23.10.550 and an employee
28 bargaining organization that does not contain benefit provisions at least as beneficial to the
29 employee as those provided by AS 23.10.500 - 23.10.550 shall be considered to contain the
30 benefit provisions of those statutes.

31 * Sec. 8. AS 39.20.225(b)(4) is amended to read:

1 (4) Pregnancy and childbirth or the placement of a child, other than the
 2 employee's stepchild, with the employee for adoption is a medical reason for an [A FEMALE]
 3 officer or employee to take personal leave. [A FEMALE OFFICER OR EMPLOYEE,
 4 OTHERWISE QUALIFIED FOR A LEAVE OF ABSENCE, IS ENTITLED TO TAKE A
 5 MAXIMUM OF NINE WEEKS LEAVE IMMEDIATELY PRECEDING AND FOLLOWING
 6 CHILDBIRTH. IF THE OFFICER'S OR EMPLOYEE'S ACCRUED PERSONAL LEAVE IS
 7 INSUFFICIENT FOR THIS PURPOSE, THE OFFICER OR EMPLOYEE IS ENTITLED TO
 8 TAKE LEAVE WITHOUT PAY FOR THE BALANCE OF THE NINE-WEEK PERIOD.]

9 * Sec. 9. AS 39.20 is amended by adding a new section to read:

10 Sec. 39.20.305. FAMILY AND HEALTH LEAVE. (a) An officer or employee of the
 11 state who is otherwise qualified to take leave of absence may take family leave because of a
 12 serious health condition for a total of 18 workweeks during any 24-month period. An otherwise
 13 qualified officer or employee may take family leave because of pregnancy and childbirth or
 14 adoption for a total of 18 workweeks within a 12-month period; the right to take leave for this
 15 reason expires on the date one year after the birth or placement of the child. An officer or
 16 employee taking leave under this section shall use accrued paid leave until the officer or
 17 employee has only five days of paid leave remaining. The officer or employee may choose
 18 whether to retain a balance of five days of paid leave and take the remaining leave as unpaid
 19 leave or whether to exhaust the paid leave balance. After reducing accrued paid leave as required
 20 by this subsection, the officer or employee may take leave without pay for the balance of the
 21 family leave. If the employee is entitled to a longer period of time under AS 23.10.500, then the
 22 longer period applies. An eligible employee is entitled to take family leave

23 (1) because of pregnancy and the birth of a child of the employee or the
 24 placement of a child, other than the employee's stepchild, with the employee for adoption; the
 25 department or agency may require that an employee using family leave under this paragraph take
 26 the leave in a single block of time;

27 (2) in order to care for the employee's child, spouse, or parent who has a serious
 28 health condition; in this paragraph, "child" includes the employee's biological, adopted, or foster
 29 child, stepchild, legal ward, or a child to whom the employee stands in loco parentis; and

30 (3) because of the employee's own serious health condition.

31 (b) If the necessity for family leave under (a) of this section is foreseeable based on an

1 expected birth or adoption or on planned medical treatment or supervision, the employee shall
2 provide the employee's department or agency head with prior notice of the expected need for
3 leave in a manner that is reasonable and practicable. If the necessity for leave under this section
4 is foreseeable based on planned medical treatment or supervision, the employee shall also make
5 a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the
6 operations of the state department or agency, subject to the approval of the health care provider
7 of the employee or the employee's child, spouse, or parent.

8 (c) Notwithstanding (a) of this section, if a parent or child of two employees employed
9 by the state has a serious health condition, the state is not required to grant family leave to both
10 employees simultaneously.

11 (d) In this section, "child," "health care provider," "parent," and "serious health condition"
12 have the meanings given in AS 23.10.550.

13 * Sec. 10. AS 42.40.860 is amended by adding a new subsection to read:

14 (d) Notwithstanding any provision of AS 42.40.710 - 42.40.890 to the contrary, an
15 agreement between the corporation and an employee bargaining organization that does not
16 contain benefit provisions at least as beneficial to the employee as those provided by
17 AS 23.10.500 - 23.10.550 shall be considered to contain the benefit provisions of those statutes.

18 * Sec. 11. Notwithstanding AS 14.20.590(b), enacted by sec. 5 of this Act, AS 23.10.500 - 23.10.550,
19 enacted by sec. 6 of this Act, AS 23.40.200(g), enacted by sec. 7 of this Act, and AS 42.40.860(d)
20 enacted by sec. 10 of this Act, a collective bargaining agreement in effect on the effective date of this
21 Act that does not comply with AS 23.10.500 - 23.10.550 remains valid until the agreement expires.
22 However, the contract may not be extended by agreement or renewed unless it complies with
23 AS 14.20.590(b), AS 23.10.530, AS 23.40.200(g), or 42.40.860(d), as applicable.

HB

79

HOUSE COMMITTEE REPORT

(7)
Date Referred: May 8, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 5-9-91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

SSHB 79

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 79

MENTAL HEALTH TRUST LAND ADMINISTRATION

"An Act establishing the Alaska Mental Health Trust Authority and defining its powers and duties; relating to the administration of the trust established by the Alaska Mental Health Enabling Act of 1956 and to appropriations made to it, and to a comprehensive service program for the beneficiaries of the trust; abolishing *(omit)*

RECOMMENDATIONS:
be replaced with CS SSB 79 (RES) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) House Resources 5/7/91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Betty Davis</i>	✓				
<i>Patricia Gray (CARNEY)</i>	✓				
<i>Cheri Davis</i>				✓	
<i>Mark Hanley (HANLEY)</i>				X	
<i>(LINCOLN)</i>	✓				
<i>(GONZALES)</i>	✓				

[Signature]
CO-CHAIRMAN'S SIGNATURE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 79 (RESOURCES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES BOYER, Gonzales, Moyer

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska Mental Health Trust Authority and defining its powers
2 and duties; relating to the administration of the trust established by the Alaska Mental
3 Health Enabling Act of 1956 and to appropriations made to it, and to an integrated
4 comprehensive mental health program for the people of the state; abolishing the Interim
5 Mental Health Trust Commission; relating to the Older Alaskans Commission and the
6 Governor's Council for the Handicapped and Gifted, and services provided under the
7 Uniform Alcoholism and Intoxication Treatment Act; amending the duties of the Alaska
8 Permanent Fund Corporation and the membership and duties of the Advisory Board on
9 Alcoholism and Drug Abuse and the Alaska Mental Health Board; exempting trust property
10 from municipal taxation; amending Alaska Rule of Civil Procedure 82; and providing for
11 an effective date."

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

1 * **Section 1. PURPOSE.** (a) It is the purpose of this Act to implement the state's obligation as the
2 trustee of the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat.
3 709, by providing an integrated comprehensive mental health program for the people of the state and
4 by resolving the serious and significant legal questions attending the status of that trust

5 (1) in accordance with the holding in the decision *State v. Weiss*, 706 P.2d 681 (Alaska
6 1985), and the principles that guided the development and enactment of ch. 48, SLA 1987;

7 (2) in a manner that

8 (A) provides fair compensation to the trust as agreed upon by the parties to the
9 litigation, subject to approval by the court as fair and equitable to the beneficiaries of the trust;

10 (B) provides adequate assurances that the trust will be administered properly and
11 in a way that determines and meets the necessary expenses of an integrated comprehensive
12 mental health program for the people of the state;

13 (C) assures appropriate expenditures from the trust; and

14 (D) establishes an independent trust authority.

15 (b) It is the further purpose of this Act that the trust serve, at a minimum, the mentally ill, the
16 mentally defective and retarded, chronic alcoholics suffering from psychoses, and senile people who as
17 a result of their senility suffer major mental illness.

18 (c) In enacting sec. 53 of this Act, the legislature

19 (1) seeks, in conjunction with other conveyances and payments authorized by law, to
20 satisfy the mandate of *State v. Weiss*, 706 P.2d 681 at 684 (Alaska 1985), to reconstitute the trust
21 established under the Alaska Mental Health Enabling Act of 1956;

22 (2) determines that the conveyances to the trust of state land within the boundary of the
23 Kuparuk River Unit Agreement will provide revenue from royalties sufficient to

24 (A) substantially reimburse the reestablished trust for the fair market value of
25 former mental health land sold since the date of its conveyance under 1978 legislation
26 redesignating the former trust land; and

27 (B) provide sufficient contribution of money to the trust corpus to allow the
28 Alaska Mental Health Trust Authority to assume responsibility for the development and
29 implementation of a comprehensive service program for the trust beneficiaries.

30 * **Sec. 2.** AS 09.25.050(a) is amended to read:

31 (a) The uninterrupted adverse notorious possession of real property under color and claim

1 of title for seven years or more is conclusively presumed to give title to the property except as
2 against the state or the United States. For the purpose of this subsection, land that is included
3 in the corpus of the trust established by the Alaska Mental Health Enabling Act of 1956,
4 P.L. 84-830, 70 Stat. 709, is land owned by the state.

5 * Sec. 3. AS 29.45.030(a) is amended to read:

6 (a) The following property is exempt from general taxation:

7 (1) municipal, state, or federally owned property, or land that is incorporated
8 in the corpus of the trust established by the Alaska Mental Health Enabling Act of 1956,
9 P.L. 84-830, 70 Stat. 709, except that a private leasehold, contract, or other interest in the
10 property is taxable to the extent of the interest;

11 (2) household furniture and personal effects of members of a household;

12 (3) property used exclusively for nonprofit religious, charitable, cemetery,
13 hospital, or educational purposes;

14 (4) property of a nonbusiness organization composed entirely of persons with 90
15 days or more of active service in the armed forces of the United States whose conditions of
16 service and separation were other than dishonorable, or the property of an auxiliary of that
17 organization;

18 (5) money on deposit;

19 (6) the real property of certain residents of the state to the extent and subject to
20 the conditions provided in (e) of this section;

21 (7) real property or an interest in real property that is exempt from taxation under
22 43 U.S.C. 1620(d), as amended.

23 * Sec. 4. AS 36.30.850(b) is amended to read:

24 (b) This chapter applies to every expenditure of state money by the state, acting through
25 an agency, under a contract, except that this chapter does not apply to

26 (1) grants;

27 (2) contracts for professional witnesses to provide for professional services or
28 testimony relating to existing or probable lawsuits in which the state is or may become a party;

29 (3) contracts of the University of Alaska where the work is to be performed
30 substantially by students enrolled in the university;

31 (4) contracts for medical doctors and dentists;

- 1 (5) acquisitions or disposals of real property or interest in real property, except
2 as provided in AS 36.30.080;
- 3 (6) disposals under AS 38.05;
- 4 (7) contracts for the preparation of ballots under AS 15.15.030;
- 5 (8) acquisitions or disposals of property and other contracts relating to airports
6 under AS 02.15.070, 02.15.090, and 02.15.091;
- 7 (9) disposals of obsolete property under AS 19.05.060;
- 8 (10) disposals of obsolete material or equipment under AS 35.20.060;
- 9 (11) agreements with providers of services under AS 44.47.250; AS 47.07;
10 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;
- 11 (12) contracts of the Department of Fish and Game for flights that involve
12 specialized flying and piloting skills and are not point-to-point;
- 13 (13) purchases of income-producing assets for the state treasury or a public
14 corporation of the state;
- 15 (14) operation of the state boarding school established under AS 14.16, if the
16 State Board of Education or the commissioner of education adopts regulations for use by the state
17 boarding school in procurement and contracting;
- 18 (15) a contract that is a delegation, in whole or in part, of investment powers held
19 by the commissioner of revenue under AS 14.25.180, AS 14.40.400, AS 14.42.200, 14.42.210,
20 AS 18.56.095, AS 22.25.048, AS 26.05.228, AS 37.10.070, 37.10.071, AS 37.14, or
21 AS 39.35.080;
- 22 (16) a contract that is a delegation, in whole or in part, of investment powers of
23 (A) the Board of Trustees of the Alaska Permanent Fund Corporation
24 under AS 37.13;
- 25 (B) the Alaska Mental Health Trust Authority under AS 37.14.001 -
26 37.14.099;
- 27 (17) the purchase of books, book binding services, newspapers, periodicals,
28 audio-visual materials, network information services access, approval plans, professional
29 memberships, archival materials, objects of art, and items for museum or archival acquisition
30 having cultural, historical, or archaeological significance; in this paragraph
31 (A) "approval plans" means book selection services in which current book

1 titles meeting an agency's customized specifications are provided to the agency subject
2 to the right of the agency to return those books that do not meet with the agency's
3 approval;

4 (B) "archival materials" means the noncurrent records of an agency that are
5 preserved after appraisal because of their value;

6 (C) "audio-visual materials" means nonbook prerecorded materials,
7 including records, tapes, slides, transparencies, films, filmstrips, cassettes, videos, compact
8 discs, laser discs, and items that require the use of equipment to render them usable;

9 (D) "network information services" means a group of resources from which
10 cataloging information, holdings records, inter-library loans, acquisitions information, and
11 other reference resources can be obtained;

12 (18) contracts for the purchase of standardized examinations for licensure under
13 AS 08;

14 (19) contracts for home health care and adult residential and foster care services
15 provided under regulations adopted by the Department of Health and Social Services;

16 (20) contracts for supplies or services for research projects funded by money
17 received from the federal government or private grants; [OR]

18 (21) guest speakers or performers for an educational or cultural activity; or

19 (22) contracts for services that are entered into by the Alaska Mental Health

20 Trust Authority.

21 * Sec. 5. AS 37.05.540(b) is amended to read:

22 (b) Except for appropriations to the permanent fund or for Alaska permanent fund
23 dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds,
24 appropriations required to pay the principal and interest on general obligation bonds, [AND]
25 appropriations of money received from a nonstate source in trust for a specific purpose, including
26 revenue of a public enterprise or public corporation of the state that issues revenue bonds, and
27 appropriations authorized by AS 37.14.031(a)(5), appropriations from the treasury made in a
28 fiscal year may not exceed appropriations made in the preceding fiscal year by more than five
29 percent plus the change in population and inflation since the beginning of the preceding fiscal
30 year. For purposes of applying this limit an appropriation is considered to be made in the fiscal
31 year in which it is enacted and a reappropriation remains attributed to the fiscal year in which

1 the original appropriation is enacted. The determination of the change in population for purposes
2 of this subsection shall be based on an annual estimate of population by the Department of Labor.
3 The determination of the change in inflation for purposes of this subsection shall be based on the
4 Consumer Price Index for all urban consumers for Anchorage prepared by the United States
5 Bureau of Labor Statistics. The amount of money received by the state that is subject to the
6 appropriation limit includes the balance in the general fund carried forward from the preceding
7 fiscal year.

8 * Sec. 6. AS 37.13.030 is amended to read:

9 Sec. 37.13.030. PURPOSE. It is the purpose of AS 37.13.010 - 37.13.210 [THIS
10 CHAPTER] to provide a mechanism for the management and investment of those permanent fund
11 assets allocated to the Alaska Permanent Fund Corporation in a manner consistent with the
12 findings in AS 37.13.020.

13 * Sec. 7. AS 37.13.040 is amended to read:

14 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established
15 the Alaska Permanent Fund Corporation. The corporation is a public corporation and government
16 instrumentality in the Department of Revenue managed by the board of trustees. The purpose
17 of the board is to manage and invest the assets of the corporation in accordance with
18 AS 37.13.010 - 37.13.210 [THIS CHAPTER].

19 * Sec. 8. AS 37.13. is amended by adding a new section to read:

20 Sec. 37.13.300. CORPORATION TO MANAGE CERTAIN ASSETS OF THE MENTAL
21 HEALTH TRUST. (a) Subject to agreement with the Alaska Mental Health Trust Authority
22 entered into under AS 37.14.009(a)(5), the corporation shall manage the cash assets of the corpus
23 of the trust established under the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70
24 Stat. 709.

25 (b) The corporation shall

26 (1) continually hold and invest the cash assets of the corpus of the trust subject
27 to AS 37.13.120;

28 (2) at least quarterly, prepare, publish, and distribute to the Board of Trustees of
29 the Alaska Mental Health Trust Authority a financial report indicating investment revenue and
30 expenditures, and including a statement setting out the allocation of the cash assets of the trust
31 among investment vehicles;

1 (3) annually prepare, publish, and distribute to the Board of Trustees of the Alaska
2 Mental Health Trust Authority externally audited financial statements and an external audit
3 opinion as to the fair presentation of the financial position of the Alaska mental health trust in
4 conformity with generally accepted accounting principles; and

5 (4) periodically advise the Board of Trustees of the Alaska Mental Health Trust
6 Authority of potential changes to long-range investment policy, including pending asset allocation
7 policy changes, and provide an opportunity for consultation and comment on the potential
8 changes.

9 (c) Net income from the cash assets of the corpus of the trust managed under this section
10 may not be included in the computation of net income available for distribution under
11 AS 37.13.140.

12 * Sec. 9. AS 37.14 is amended by adding new sections to read:

13 Sec. 37.14.001. CO-TRUSTEES OF MENTAL HEALTH TRUST. (a) Each of the
14 following is a co-trustee of the trust established under the Alaska Mental Health Enabling Act
15 of 1956:

16 (1) the governor;

17 (2) the legislature;

18 (3) the Alaska Mental Health Trust Authority established by AS 47.30.011.

19 (b) The discharge of a fiduciary duty of a co-trustee is subject to review by the superior
20 court to determine whether a co-trustee, or any contribution of co-trustees, has properly
21 discharged a duty set out in AS 37.14.003, 37.14.005, 37.14.007, or the Alaska Mental Health
22 Enabling Act of 1956. In making its determination, the court has jurisdiction over property of
23 the trust to the extent the court finds it necessary to implement its decisions respecting the proper
24 discharge of a duty under AS 37.14.003, 37.14.005, 37.14.007, or the Alaska Mental Health
25 Enabling Act of 1956.

26 Sec. 37.14.003. GOVERNOR AS CO-TRUSTEE. (a) The governor is a co-trustee of
27 the mental health trust income account and, as a co-trustee, is subject to the provisions of this
28 section.

29 (b) In the appointment of the public members of the Alaska Mental Health Trust
30 Authority under AS 47.30.016(b)(2), the governor is acting as a trustee of the trust.

31 (c) In reviewing the budget recommendations of the authority for inclusion in the

1 proposed budget for the next fiscal year under art. IX, sec. 12, of the Constitution of the State
2 of Alaska, the governor shall act solely in the best interests of the beneficiaries of the trust and
3 without regard to other potential objects of state expenditure.

4 (d) To the extent that the proposed budget transmitted under art. IX, sec. 12, Constitution
5 of the State of Alaska, differs from the budget recommendations of the authority, the governor
6 shall

7 (1) issue a report justifying the changes; the report must state with particularity,
8 with respect to each difference from the authority's proposed budget, the facts and circumstances
9 relied upon by the governor in determining that the best interests of the beneficiaries of the trust
10 require a different budget recommendation;

11 (2) provide the report prepared under (1) of this subsection to the legislature, the
12 authority, and all entities providing services with money from the mental health trust income
13 account for further distribution by the entities to the beneficiaries of the trust and their
14 representatives; and

15 (3) make the report available to the public upon request.

16 (e) In reviewing appropriations of money from the mental health trust income account
17 for possible veto, the governor shall act solely in the best interests of the beneficiaries of the trust
18 and without regard to other potential objects of state expenditures. If the governor vetoes all or
19 a portion of an appropriation by the legislature of money from the mental health trust income
20 account, the governor shall issue a report justifying the vetoes as being in the best interests of
21 the beneficiaries of the trust. The governor's report must state with particularity, with respect
22 to each item vetoed, the facts and circumstances relied upon by the governor in determining that
23 the best interests of the beneficiaries of the trust require a reduction or elimination of the
24 appropriation.

25 Sec. 37.14.005. LEGISLATURE AS CO-TRUSTEE. (a) The legislature is a co-trustee
26 of the mental health trust income account and, as co-trustee, is subject to the provisions of this
27 section.

28 (b) The legislature shall annually adopt and transmit to the governor a bill making a
29 separate appropriation of money in the mental health trust income account no later than the 60th
30 day of the regular session. However, the legislature may extend the deadline established by this
31 subsection to the 80th day of the regular session by adopting a concurrent resolution adopted by

1 a two-thirds vote of each house.

2 (c) A legislative committee taking action on the bill making an appropriation from the
3 mental health trust income account shall take action on the bill that is solely in the best interests
4 of the beneficiaries of the trust and without regard to other potential objects of state expenditure,
5 and shall proceed substantially as follows:

6 (1) if the committee action differs from the recommendations of the authority, the
7 committee shall issue written findings stating with particularity the facts and circumstances upon
8 which it relied in determining that it is in the best interests of the beneficiaries of the trust to
9 deviate from the budget recommendations of the authority;

10 (2) if the committee acts to reduce mental health trust income account
11 expenditures from those proposed by the authority, the written findings must include, but are not
12 limited to, specific evidence that the budget recommendations of the authority proposed for
13 reduction are not needed, or that the authority has overstated the costs of providing the services;

14 (3) if the committee acts to make expenditures that have not been recommended
15 by the authority, the written findings must include, but are not limited to, specific evidence that
16 the proposed addition meets the requirements of AS 47.30.056, is a necessary expense for
17 beneficiaries of the trust, is consistent with the legislature's fiduciary obligations as co-trustee,
18 and is in the best interests of the beneficiaries of the trust;

19 (4) if, as to the authority's recommendation under AS 47.30.046(a)(3) for use of
20 the amount of surplus, if any, in the mental health trust income account for transfer to the general
21 fund, the committee acts to increase the amount of money to be transferred from the trust to the
22 general fund over the authority's recommendations, the committee's written findings must
23 include, but are not limited to, specific evidence that the additional money the committee action
24 would transfer from the trust account to the general fund is not reasonably or foreseeably needed
25 to meet the necessary operating and capital expenses of the integrated comprehensive mental
26 health program for the people of the state to be funded from the trust.

27 (d) In taking action on the bill appropriating money from the mental health trust income
28 account, the legislature shall base its action solely in the best interests of the beneficiaries of the
29 trust without regard to other potential objects of state expenditure and shall proceed substantially
30 as follows:

31 (1) if the appropriation differs from the recommendations of the authority, the

1 legislature must issue a written report stating with particularity the facts and circumstances upon
2 which it relied in determining it is in the best interests of the beneficiaries of the trust to deviate
3 from the budget recommendations of the authority;

4 (2) if the legislature acts to reduce expenditures from those proposed by the
5 authority, its report must include, but is not limited to, specific evidence that the budget
6 recommendations of the authority proposed for reduction are not needed, or that the authority has
7 overstated the cost of providing the services;

8 (3) if the legislature acts to make expenditures that have not been recommended
9 by the authority, its report must include, but is not limited to, specific evidence that the proposed
10 addition meets the requirements of AS 47.30.056, is a necessary expense for the beneficiaries of
11 the trust, is consistent with the legislature's fiduciary obligation as co-trustee, and is in the best
12 interests of the beneficiaries of the trust;

13 (4) if, as to the authority's recommendation under AS 47.30.046(a)(3) for use of
14 the amount of surplus, if any, in the mental health trust income account for transfer to the general
15 fund, the legislature acts to increase the amount of money to be transferred from the trust to the
16 general fund over the authority's recommendations, its report must include, but is not limited to,
17 specific evidence that the additional funds the legislative action would transfer from the trust
18 account to the general fund are not reasonably or foreseeably needed to meet the necessary
19 operating and capital expenses of the integrated comprehensive mental health program for the
20 people of the state to be funded from the trust.

21 (e) Annually, the legislature shall prepare a report of the trustee of the mental health
22 trust. The report must describe, at a minimum,

23 (1) the assets, earnings, and expenditures of the trust as of the end of the
24 preceding fiscal year;

25 (2) comparisons of the trust's assets, earnings, and expenditures with the prior five
26 fiscal years;

27 (3) projections for the trust's assets, earnings, and expenditures during the next
28 five fiscal years; and

29 (4) the amount of money appropriated from the mental health trust income
30 account and, if the appropriation differs from the budget recommendations submitted by the
31 authority, the information required by (d) of this section.