

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 86/2

8866 SENATE HEALTH EDUCATION & SOCIAL SERVICES

SB

137

TONY KNOWLES
GOVERNOR



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 20, 1995

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that establishes a temporary retirement incentive program for employees of the state, its subdivisions, and its school districts, and a temporary separation incentive program for employees of the state.

Closing the state's fiscal gap will require major changes in state operations over the next several years. We need to make state government more efficient and eliminate nonessential services. Our challenge is to accomplish these goals without forcing large layoffs of employees, which could ripple through the private sector and endanger the health of Alaska's economy. Retirement and separation incentive plans have been successfully used by the private sector and government to scale back payroll while eliminating or minimizing the need for layoffs.

Properly structured, these plans can be a cost-effective and humane method of downsizing. This legislation will make these restructuring tools available to the State of Alaska, and will extend the retirement incentive program as an option for municipalities and school districts, which are also facing the need to restructure their operations and work forces.

My Administration will use the retirement and separation incentives in a strategic approach, different from prior programs. The last state retirement incentive program applied to all departments regardless of their budget or personnel situation, and had little effect on downsizing or restructuring government.

The Honorable Drue Pearce:

March 20, 1995

Page 2

Under our approach, the programs will be tailored to the fiscal and staffing requirements of each department. This approach is similar to private sector and federal programs. The incentives will be used in combination with attrition to permanently reduce the number of positions on the state payroll. Departments will be able to participate in the incentive programs only if the programs contribute to their budget and staffing requirements and are cost effective.

This bill differs from the previous retirement incentive program (RIP) laws, enacted in 1986 and 1989, in that employers are specifically authorized to extend an incentive plan to employees in certain components (e.g., certain state divisions slated for major reductions), in certain job classifications, or certain geographic locations. In addition, with regard to the state, not all state employees will be eligible to apply during a window period. Instead the commissioner of administration is authorized to establish window periods (of 30 to 60 days) for some departments and not others. This will allow targeting of departments where major reductions are contemplated, and will alleviate the "brain drain" problem that arose when previous incentive programs were implemented.

The bill also requires that cost savings be shown for each employee allowed to participate, and that cost savings be calculated over a three-year period rather than a five-year period. This change from previous RIP laws will guarantee that the retirement incentive program produces substantial savings to the state and its local governments and school districts.

There are some similarities between this bill and the prior RIP laws. As with those laws, this bill provides that eligible state, municipal, and school district employees in the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) may obtain three years of retirement credit, to be applied toward reaching normal or early retirement age, reducing the actuarial reduction that early retirees must take, or increasing years of credited service. An employee must pay the appropriate retirement system the employee's normal share for these three years of credit, and the employer must pay the system the difference between what the employee pays and the actuarial cost of allowing the employee to participate. Applications for participation in the program will be allowed only during relatively short "window periods," and the employee must retire within several months after the end of a window period. The bill imposes substantial penalties on an employee retiring under the RIP who accepts employment with another PERS or TRS employer or with a Judicial Retirement System employer, or who is reemployed as a member of the optional university retirement system.

The Honorable Drue Pearce

March 20, 1995

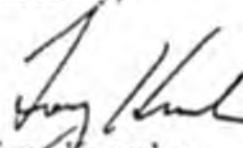
Page 3

The bill also proposes, for the state only, another temporary incentive program, the separation incentive program, that has not been used previously by the state, but that has been used successfully by local governments and school districts in Alaska, by the federal government, and by the private sector. Under this program, which may be offered in conjunction with the RIP or separately from that program, long-term state employees separating from state service may be paid a one-time separation incentive payment. That payment would be \$25,000 or six months' salary, whichever is less, unless a state department or the office of management and budget sets a lower payment. As with the RIP, separation incentive payments could be made only if they would result in cost savings to the state over a three-year period; the program would not be open to all state employees, but could be limited to certain departments or job classes; there would be brief "window periods" for application; and there would be substantial penalties for reemployment by the state within three years.

As this bill works its way through the legislative process, representatives of my Administration will be available to answer any questions that members of your body might have.

I urge your prompt consideration and passage of this bill.

Sincerely,



Tony Knowles
Governor

FISCAL NOTE

No. 3

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. Bill Version: SB 137

(S) Publish Date: 3/22/95

Revision Date: _____ Dept. Affected: All Departments
 Title: An Act relating to retirement incentive programs... BRU: _____
 Component: _____
 Sponsor: Rules Committee by Request of the Governor
 Requester: _____ COMPONENT SERIAL NO. _____

Consolidated Fiscal Note for Executive Branch

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Governor
Administration	666.3	543.1	331.7	321.3	310.9	310.9
DCED
DCRA
Corrections
Education
Postsecondary
DEC
ADF&G
CFEC
DH&SS
Labor
Law
DMVA
DNR
Public Safety
DOR
DOT&PF
TOTAL

ANALYSIS: (Attach a separate page if necessary)

This legislation is expected to result in substantial savings in personal services costs for the state; however, the actual fiscal impact for each department cannot be accurately projected until the program is implemented. See attached analysis for explanation.

Prepared by: Annalee McConnel, Director *Nancy J. Slagle for* Phone: 465-4660
 Division: Office of Management and Budget Date: 3/17/95
 Approved by Commissioner: Jim Avers, Chief of Staff *David R. Jensen for* Date: 3/17/95
 Agency: Office of the Governor

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS: (continued)

This legislation is expected to result in substantial savings in personal service costs for the state; however, the actual fiscal impact for each department cannot be accurately projected for the following reasons:

1. The administration is not planning to implement the legislation in an across-the-board manner, but instead plans to use a more strategic approach tailored to the individual budget and staffing requirements of each department. This approach is similar to that used by many private sector firms, and currently in use by the federal government in its downsizing program.

The participation of each department will therefore depend on the budget and staffing situation of the department at the time the program is implemented. Some departments may not participate in the program if it would not be effective in meeting their requirements. Other departments may offer the program in only certain parts of the department that are being restructured or downsized.

2. The number of employees eligible to participate in both the retirement incentive program and the separation incentive program has not yet been established. The number of employees meeting the basic eligibility criteria will be identified soon; however, the retirement and separation incentive programs may be offered to only a portion of these employees, as described above.
3. Another variable which will affect actual savings is the percentage of employees that will elect to participate in the retirement and separation incentive programs if they are offered to them. The participation rate in the last state RIP in 1989-90 averaged approximately 30 percent. However, this rate varied substantially by department. In addition, the separation incentive program has not been used by the state before, so there is no history of participation rates for this program.

The fiscal impacts shown for the Department of Administration reflect the administrative costs for the Division of Retirement and Benefits and the Division of Finance to perform their responsibilities under the bill. The costs for the Division of Retirement and Benefits would be paid through an administrative charge for participating employers. See the attached fiscal notes from the two divisions for more details.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 2

Sill Version: SB 137

(S) Publish Date: 3/20/95

Revision Date: _____
Title: An Act relating to retirement incentive programs for the public employees' retirement system and the teachers'
Sponsor: Rules Committee by Request of the Governor
Requestor: _____

Department Affected: Administration
BRU: Retirement & Benefits
Component: Retirement & Benefits

COMPONENT SERIAL NO. 64

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	489.1	489.1	289.3	289.3	289.3	289.3
TRAVEL	8.0	8.0	3.0	3.0	3.0	3.0
CONTRACTUAL	27.7	22.7	16.5	16.5	16.5	16.5
SUPPLIES	13.2	3.0	2.1	2.1	2.1	2.1
EQUIPMENT	108.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	646.0	522.8	310.9	310.9	310.9	310.9

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	646.0	522.8	310.9	310.9	310.9	310.9
TOTAL	646.0	522.8	310.9	310.9	310.9	310.9

Estimate of any current year (FY 95) cost: zero

FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	11	11	5	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The actuarial costs to participating employers due to this program are to be paid up front and no additional costs to the systems are anticipated. An administrative charge for participating employers will cover the increased costs of administering the retirement incentive program.

Prepared by: Robert F. Stangor *R. F. Stangor*
Division: Retirement & Benefits

Phone: 465-4470
Date: _____

Approved by Commissioner: Mark Boyer *Mark Boyer*
Agency: Department of Administration

Date: 3/16/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. RIP Bill

ANALYSIS: (continued)

This bill creates a retirement incentive program for the Public Employees' (PERS) and Teachers' (TRS) Retirement Systems. In addition, it allows for separation bonuses for state employees. Authorization of a RIP for State employees could begin as early as July 1, 1995 or as late as June 30, 1998. RIP eligibility periods for state employees would be designated by the Commissioner of Administration. RIP window periods would last from 30-60 days. The University of Alaska may adopt a RIP between June 30, 1995 and December 31, 1995. Participating PERS political subdivision employers may adopt a RIP between December 31, 1995 and June 30, 1996. Participating TRS employers may adopt a RIP between June 30, 1995 and December 31, 1995. Active PERS and TRS members could retire on an accelerated basis with an increased benefit under the following conditions: at age 47, if vested; with 17 years of service as a qualified peace officer, fire fighter or teacher; or with 27 years of credited service in the PERS. Before qualifying for an accelerated benefit, however, the member must pay a lump sum indebtedness payment or take an actuarial reduction from their lifetime benefit for the indebtedness amount.

We estimate that two permanent employees will be needed to manage the operations of the program and increased service demands into the future. Eleven long-term non-permanent employees will also be needed over the next two fiscal years, with five of those to remain for the third fiscal year. Personnel will handle increased counseling, address and beneficiary changes, account maintenance, and other services. Subsequent increases in the number of retirees will necessitate increased permanent employees to handle the increased demand for information and services.

We estimate that we will need to increase our normal number of counseling trips by five trips over the next two fiscal years to assure that members understand the options and requirements of the program.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. RIP Bill

The total estimated administrative cost to the division by fiscal year is as follows:

	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY 1998</u>
PERSONAL SERVICES			
	<u>FY 1996</u>		
2 Retirement & Benefits Specialist I	\$103.0		
5 Retirement & Benefits Tech I/II (NP)	186.0		
1 Accounting Tech II (N/P)	41.1		
3 Accounting Clerk III (NP)	100.8		
2 Admin Clerk I (NP)	<u>58.2</u>		
TOTAL FY 1996 COSTS		\$489.1	
	<u>FY 1997</u>		
2 Retirement & Benefits Specialist I	\$103.0		
5 Retirement & Benefits Tech I/II (NP)	186.0		
1 Accounting Tech II (N/P)	41.1		
3 Accounting Clerk III (NP)	100.8		
2 Admin Clerk I (NP)	<u>58.2</u>		
TOTAL FY 1997 COSTS		\$489.1	
	<u>FY 1998</u>		
2 Retirement & Benefits Specialist I	\$103.0		
3 Retirement & Benefits Tech I/II (N/P)	111.6		
1 Accounting Tech II (N/P)	41.1		
1 Accounting Clerk III (N/P)	<u>33.6</u>		
TOTAL FY 1998 COSTS			\$289.3
TRAVEL			
Traveling to various locations throughout the state to counsel prospective retirees and give seminars.	8.0	8.0	3.0
CONTRACTUAL			
Communication (Telephone, Postage)	14.0	13.2	9.6
Mainframe Computer Time	9.7	8.8	6.2
Software Maintenance	3.3		
Training/Risk Management	<u>.7</u>	<u>.7</u>	<u>.7</u>
Total Contractual	27.7	22.7	16.5
SUPPLIES			
Office Supplies, Calculators, software	13.2	3.0	2.1

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. RIP Bill

	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY 1998</u>
EQUIPMENT			
Computer Workstations	44.0	0.0	0.0
File Cabinets (2)	8	0.0	0.0
Office Chairs (3)	6.6	0.0	0.0
Microfiche Viewers (11)	6.6	0.0	0.0
Office Workstations	10.0	0.0	0.0
Computer/Network Printers	12.0	0.0	0.0
Computer Network Upgrades	21.4	0.0	0.0
Telephone Unit (11)	<u>6.6</u>	<u>0.0</u>	<u>0.0</u>
Total Equipment	<u>108.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL OPERATIONS COST	\$646.0	\$522.8	\$310.9

The retirement technicians, retirement specialists, accounting technicians, and accounting clerks need constant access to the PERS and TRS computer files. We do not have any excess terminals, microfiche viewers, or calculators. Our equipment request will satisfy our equipment needs for the duration of this program. We propose the purchase of personal computers to be used as terminals because they will be compatible with the division's local area network.

We are also proposing the purchase of two additional computer printers. The previous RIPs put a great demand on our existing printers and we were always in a state of backlog. Our current day-to-day printer needs maximize the capacity of our existing printers. After comparing the cost of leasing printers for two years, coupled with our existing needs, purchasing new printers would be more cost effective.

All administrative costs of the program will be paid in advance by participating employers as required by the bill.

Funding Source Breakdown for FY 1996:

1029	PERS	355.3
1034	TRS	<u>290.7</u>
		 \$646.0

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.

03/16/95

Position Information Inquiry/Update

11:43:37

Position: 02-02#144	Project: 0	Salary Costs: 36,444.00
Component: 02-95-05-08-00-00	Region:	Benefits Costs: 15,071.30
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 51,515.30

Actuals not available (Status: UNKNOWN) |

Retirement Code: A

00/00/00 0	Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
	Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
	Class/Sched Prefix: 2 Schedule: 2A (actual:)
	Bargaining Unit: GG Range: 16 (actual:)
	Location Code: AWA Place: JUNEAU
	Job Class Code: P1442 Title: RETIREMENT BEN SPEC I _____
Seasonal Indic.: F Type: -	

Optional Override Salary Rates:

Monthly Rate: 0.00 _____ for 0.0 months & rate of 0.00 _____ for 0.0 months
 Hourly Rate: 0.00 _____ for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.

03/16/95

Position Information Inquiry/Update

16:25:27

Position: 02-02#149	Project: 0	Salary Costs: 28,356.00
Component: 02-95-05-08-00-00	Region:	Benefits Costs: 8,887.75
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 37,243.75

Actuals not available (Status: UNKNOWN)

Retirement Code: N

00/00/00	Step: A for 6.0 months & Step: B for 6.0 months (total: 12.00)
0	Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
	Class/Sched Prefix: 2 Schedule: 2A (actual:)
	Bargaining Unit: GG Range: 12 (actual:)
	Location Code: AWA Place: JUNEAU
	Job Class Code: P1444 Title: RETIREMENT BENEFIT TEC II
	Seasonal Indic.: G Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months

Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:

1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_

6079

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.
03/16/95 Position Information Inquiry/Update

16:26:04

Position: 02-02#151 Project: 0 Salary Costs: 31,740.00
Component: 02-95-05-08-00-00 Region: Benefits Costs: 9,328.01
Scenario: 2 FY: 96 COLA %= 0.000 Total Costs: 41,068.01

Actuals not available (Status: UNKNOWN) Retirement Code: N

00/00/00 Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
0 Class/Sched Prefix: 2 Schedule: 2A (actual:)
Bargaining Unit: GG Range: 14 (actual:)
Location Code: AWA Place: JUNEAU
Job Class Code: P1211 Title: ACCOUNTING TECH II _____
Seasonal Indic.: G Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_

709

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.
03/16/95 Position Information Inquiry/Update

16:26:37

Position: 02-02#154 Project: 0 Salary Costs: 25,140.00
Component: 02-95-05-08-00-00 Region: Benefits Costs: 8,469.35
Scenario: 2 FY: 96 COLA %= 0.000 Total Costs: 33,609.35

Actuals not available (Status: UNKNOWN) | Retirement Code: N

00/00/00 Step: A for 6.0 months & Step: B for 6.0 months (total: 12.00)
Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
0 Class/Sched Prefix: 2 Schedule: 2A (actual:)
Bargaining Unit: GG Range: 10 (actual:)
Location Code: AWA Place: JUNEAU
Job Class Code: P1203 Title: ACCOUNTING CLERK III
Seasonal Indic.: G Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0

879

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.
03/16/95 Position Information Inquiry/Update

16:27:02

Position: 02-02#156 Project: 0 Salary Costs: 21,108.00
Component: 02-95-05-08-00-00 Region: Benefits Costs: 7,944.79
Scenario: 2 FY: 96 COLA % = 0.000 Total Costs: 29,052.79

Actuals not available (Status: UNKNOWN) | Retirement Code: N

00/00/00 Step: A for 6.0 months & Step: B for 6.0 months (total: 12.00)
0 Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
Class/Sched Prefix: 2 Schedule: 2A (actual:)
Bargaining Unit: GG Range: 07 (actual:)
Location Code: AWA Place: JUNEAU
Job Class Code: P1133 Title: ADMINISTRATIVE CLERK I _____
Seasonal Indic.: G Type: -

Optional Override Salary Rates:
Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0

979

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: SB 137
(S) Public Date: 3/20/95

Revision Date: _____

Department Affected: Administration

Title: "An Act relating to retirement incentive..."

BRU: Finance

Component: Finance

Sponsor: Rules Committee

COMPONENT SERIAL NO. 59

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL	20.3	20.3	20.8	10.4	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND &	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	20.3	20.3	20.8	10.4	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	20.3	20.3	20.8	10.4	0.0	0.0
1005 GF/Program	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	20.3	20.3	20.8	10.4	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME	1	1	1	1		
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
See attached.

Prepared by: Don Wanie *DW*
Division: Finance

Phone: 465-2240
Date: _____

Approved by Commissioner: Mark Boyer *Mark Boyer*
Agency: Department of Administration

Date: 3/16/95

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The Division of Finance is responsible for verification of employment history and processing of termination pay for all state employees. This includes verifying the length of employment, accounting for all leave without pay during the entire employment with the state and determining salaries for the three highest years. Final and terminal leave pay must be processed in accordance with contractual agreements.

With implementation of a Retirement Incentive Program (RIP) the workload for these functions would be significantly increased and additional support will be required by the Division of Finance to meet processing deadlines. It is estimated a half time Accounting Technician I will be needed in FY 96, 97 and 98 and the first half of FY 99 to accommodate the additional workload generated by the

Accounting Technician I,	FY 96	FY 97	FY 98	FY 99
Range 14 A half time.	20.3	20.3		
Range 14 B half time.			20.8	10.4

Enticements to quit attract 7,000 takers

Gov. Allen wants to cut state workers

RICHMOND (AP) — More than 7,000 state employees — about 6 percent of the work force — are seeking retirement or cash buyouts under an Allen administration plan to cut the size of state government.

As of yesterday's deadline to enroll in the program, at least 7,048 of the state's 113,000 employees — one out of every 16 workers — had offered to quit, said Secretary of Administration Michael E. Thomas.

The figure exceeded an administration projection of 6,000 and was expected to grow. Some agencies anticipated losing hundreds of employees; others, more than 1,000.

Gov. George Allen, a Republican, has said he may eliminate more than 16,000 state jobs by the time he leaves office in January 1998.

"The plan was designed to induce state employees to leave voluntarily, and I think that it's working," Mr. Thomas said. "We don't see that there's anything beyond that."

But Joan Dent of the Virginia Governmental Employees Association said the flood of applications shows that workers are sick of being depicted by Mr. Allen as lazy and overpaid.

"I think people are kind of fed up, and saying, 'It's time for me to go,'" said Ms. Dent, whose organization is challenging Mr. Allen's hiring and firing policies in a Rich-

mond Circuit Court lawsuit.

Or as Art Buehler III, a 10-year senior environmental engineer seeking a buyout from the Department of Environmental Quality, put it:

"I considered it an honor to work for the commonwealth. Quite frankly all those factors have been removed — job stability, job security and the overall feeling that you're improving and protecting the environment.

"We used to have the feeling that we were wearing the white hats — that we were the good guys."

Under the Workforce Transition Act, employees who offer to leave could receive a premium equivalent to nine months' pay. The amount is based on length of service.

The administration has until April 15 to accept or reject requests to leave the government payroll. Mr. Allen has said he won't allow the plan to affect vital services, such as education and public safety.

"A lot of people have applied, but not everyone will be approved," Ms. Dent said. "So, at the end of this process, there will be a lot of disappointed people."

Mr. Thomas would not say how many employees might be barred from quitting.

The law also includes an early retirement feature. Workers 50 or older with a minimum of 10 years service could seek a reduced benefit.

D.C. General cuts staff, beds to cope with deficit

By Matt Neufeld
THE WASHINGTON TIMES

The District yesterday fired 194 employees, including 41 doctors.

Hospital employees and union officials strongly disagreed, saying the cuts will directly affect medical and trauma care.

They said the cut positions — which include health screening



Chief Warrant David A. Officer Re

Army retires Fort Meade's 40th

By Gerald Mizejewski
THE WASHINGTON TIMES

When Lt. Gen. John P. Otjen moved the staff and sash from drum major of the Fort George Meade First Army Band a placed them in a case yesterday the unit's 134-year mission officially ended.

Since the Civil War, when the band was first commissioned, a soldier who acted as drum major and led all parades had protected the near-sacred objects. But one could protect the band that played for presidents, troops and parade viewers from budget cuts sweeping through the military.

At the end of yesterday's ceremony at Fort Meade, after the staff and sash were taken away, members of the band covered the bass drum with a black shroud over its insignia.

The rest of the First Army Band silently marched off the field.

The decommissioning of

Washington Times
April 11, 1995

April, 1995

METRO

7,000 Anxious State Workers Accept Va.'s First Buyout

By Peter Baker
Washington Post Staff Writer

RICHMOND, March 31—Rather than risk being laid off, more than 7,000 state workers today decided to quit.

The first buyout ever offered by Virginia will result in the largest one-time exodus from state government in decades. Employees had until 5 p.m. today to notify their bosses of their intentions and, although numbers still were sketchy tonight, it was clear that many of them—from plumbers to senior managers, one of every 16 workers—were signing up.

Depending on seniority, those

leaving will receive as much as nine months of salary plus other benefits. If all were the typical state worker, making \$25,000 after 10 years' employment, direct severance alone would cost Virginia \$67.8 million. If none were replaced, however, the state ultimately would save \$176.2 million just in salaries for one year.

Officials hadn't predicted how many people the buyout might attract, and the heavy response clearly surprised them. The number will make it much easier for Gov. George Allen (R) to shrink state government without the emotional and economic turmoil that comes with widespread firings. An Allen ad-

ministration task force has recommended paring the work force by 15 percent, or roughly 17,000 jobs, by January 1998, although the governor has not committed to that goal.

Michael E. Thomas, Allen's secretary of administration, said he was pleased by the turnout. "Certainly the more people who want to leave state service voluntarily the better," he said, "because that gets us closer to the governor's goal of reducing the size of state government, but in a way that doesn't have an adverse impact on employees."

But the general public will feel the impact from motor vehicle offices to mental hospi-

tals, as employees with decades of experience suddenly depart without being replaced.

"It could substantially reduce government services," said Del. Kenneth R. Plum (D-Reston), a senior member of the House Appropriations Committee. "Like it or not, we turn to government for a lot of things, and if there's not someone there to help us out at the [motor vehicles] office or the health department, you're going to hear the other side of this."

The 7,018-plus employees represent more than 6 percent of the state's 113,186 workers. That by far eclipses any recent cut in the work force. Even during the recent recession,

3,515 employees took then-Gov. L. Douglas Wilder (D) up on early retirement incentives in 1991.

Today's rush for the door attests to the fear and anxiety under a governor who routinely assails the government bureaucracy as bloated and inefficient.

"It tells us that you got a whole lot of people who want to get out of government service," said Sen. Richard J. Holland (D-Isle of Wight), who helped pass legislation authorizing the severance package. "Morale has been very low recently among state employees."

Joan S. Dent, director of the Virginia Governmental Employees Association, said her office was flooded

Re BUYOUT, B5, Col. 1



D.C. Tries To Sort Out

Adopted

AMENDMENT #1

OFFERED IN THE SENATE
TO: SB 137

BY SENATOR MILLER

1 Page 1, line 2, after the first occurrence of "system":

2 Insert ", the judicial retirement system,"

3 Page 7, after line 20:

4 Insert a new bill section to read:

5 * Sec. 9. PROVISION AND AUTHORIZATION FOR ADMINISTRATIVE DIRECTOR
6 OF COURT. (a) The chief justice of the state supreme court may adopt a retirement
7 incentive plan for an administrative director of the Alaska Court System who is a member
8 of the judicial retirement system under AS 22.25.012 if participation in the plan will result
9 in savings to the court system in personal services costs within three years after the
10 commencement of the plan. The administrative director may participate only if the
11 administrative director is vested in the judicial retirement system and will be qualified to
12 retire under AS 22.25.010 after receipt of the retirement incentive. To participate, the
13 administrative director shall apply to the commissioner of administration to participate in the
14 approved court system plan.

15 (b) The court system shall include in the retirement incentive plan a reimbursement
16 agreement that requires the court system, for each administrative director of the Alaska Court
17 System who is retired under the plan, to reimburse the judicial retirement system within three
18 years after the end of the fiscal year in which the administrative director is appointed to
19 retirement in an amount equal to

20 (1) the actuarial equivalent of the difference between the benefits the
21 administrative director receives after the addition of the credit under (c) of this section and
22 the amount the participant would have received without the credit, less the total of the amount
23 the participant has paid on the indebtedness determined under (d) of this section; and

24 (2) an appropriate share of the administrative costs of the program.

1 (c) A retirement incentive plan adopted under this section must provide that
2 contributions from the court system under (b) of this section take priority over other
3 obligations of the court system to the maximum extent permitted by law.

4 (d) An administrative director of the Alaska Court System who participates in an
5 approved retirement incentive plan is indebted to the system. The amount of indebtedness
6 is equal to 21 percent of the director's actual annual compensation for the year in which the
7 director terminates employment to participate in the program, or the calculated annual
8 compensation for an administrative director who works fewer than 12 months. An
9 outstanding indebtedness at the time the administrative director is appointed to retirement
10 under an approved retirement incentive plan will require an actuarial adjustment to the
11 benefits payable to the director.

12 (e) An administrative director of the Alaska Court System who participates in an
13 approved retirement incentive plan receives a credit of three years that may only be used to
14 meet the age requirements for normal or early retirement under AS 22.25.010(d).

15 (f) The chief justice of the Alaska Court System may adopt, and file with the
16 commissioner of administration for approval, a proposed retirement incentive plan for the
17 administrative director of the court system who is a member of the judicial retirement system.
18 Upon the request of the chief justice, the commissioner of administration shall establish a
19 period during which an administrative director eligible to participate in the retirement
20 incentive plan of the court system may apply to the commissioner of administration to
21 participate in the court system's approved plan. The period shall begin no earlier than July 1,
22 1995, and end no later than June 30, 1998. The period shall be no less than 30 days and no
23 more than 60 days in duration and may not begin less than 30 days after establishment. The
24 chief justice is not required to request an application period.

25 (g) The commissioner of administration may not accept the application of an
26 administrative director of the court system to participate in an approved retirement incentive
27 plan adopted under this section unless the administrative director will be appointed to
28 retirement not later than the first day of the month that is six months after the last day of the
29 application period established by the commissioner under (f) of this section. The chief
30 justice, in a plan adopted under this section, may set an earlier date by which an
31 administrative director must be appointed to retirement in order to participate in the plan."

1 Renumber the following bill sections accordingly.

2 Page 11, after line 21:

3 Insert a new subsection to read:

4 "(c) Unless provided otherwise in this Act, the definition set out in AS 22.25.900
5 applies to provisions in sec. 9 of this Act that relate to the judicial retirement system and
6 members of the judicial retirement system."

7 Reletter the following subsection accordingly.

8 Page 11, after line 22:

9 Insert a new paragraph to read:

10 "(1) "judicial retirement system" means the retirement system established for
11 judges and justices in AS 22.25;"

12 Renumber the following paragraphs accordingly.

13 Page 12, line 12:

14 Delete "10"

15 Insert "11"

16 Page 12, line 13, after "Sections 4 - 7":

17 Insert "and 9"

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET

P.O. BOX 110020
JUNEAU, ALASKA 99811-0020
PHONE: (907) 465-4660
FAX: (907) 465-3008

March 29, 1995

The Honorable Lyda Green
Senator
Room 423, State Capitol
Juneau, Alaska 99801-1182

Dear Senator Green:

I am writing to request that a hearing be scheduled on SB 137, Governor Knowles' retirement incentive legislation. This bill would make retirement incentive programs available as a budget reduction and restructuring tool for the State of Alaska, municipalities, and school districts.

The budget reductions needed over the next few years in state and local governments and school districts will be much more difficult to achieve without additional management tools. Retirement incentives are an important management tool to scale back payrolls at both the state and local levels, while minimizing layoffs and impacts on the Alaska economy.

The Knowles Administration plans to use retirement incentives in a strategic approach, similar to private sector and federal programs. Rather than an across-the-board program, the use of retirement incentives will be tailored to the fiscal and staffing requirements of each department. The program will be used in combination with attrition to permanently reduce positions on the state payroll. Departments will only be allowed to participate in the program if it is cost effective and useful in meeting budget or staffing objectives.

I urge you to provide a prompt hearing for this legislation so it can be acted on this session. I would be happy to meet with you or your staff to discuss the bill and answer any questions you might have. A copy of the Governor's transmittal letter is enclosed. Thank you for your consideration of this request.

Sincerely,



Annalee McConnell
Director

MAR 29 1995

04/12/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

09:23:10

PARTICIPANT LIST (TESTIFIERS ONLY)

BY:MAT

TCN:50559

SCHEDULED FOR:04/12/95 09:00 TO 11:00

FOR:MAT

PUBLIC HEARING

SENATE HEALTH, EDUCATION & SOCIAL SERVIC

LOCATION:MATSU

SB ~~415~~

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TESTIFY

137

SB

138

SENATE BILL NO. 138

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/22/95
Referred: HES. FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the state's tuberculosis control program, (including provisions
2 for certain penalties) and providing for an effective date."

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

4 * Section 1. FINDINGS. The legislature finds that tuberculosis is a disease that can be
5 easily spread, is sometimes fatal, and constitutes a serious threat to the public health and
6 welfare. The state medical officers of the Department of Health and Social Services, division
7 of public health, must use every available means to ascertain the existence of, and immediately
8 investigate all reported or suspected cases of tuberculosis in the state, and to ascertain the
9 sources of that disease. The legislature further finds that in order to protect the public health
10 from the few persons with tuberculosis who pose a threat to the public, it is necessary to
11 establish a system of mandatory contact identification, treatment, hospitalization, and isolation
12 for infectious cases and a system of voluntary care and monitoring in all other tuberculosis
13 cases.

14 * Sec. 2. AS 18.15.120 is amended to read:

1 Sec. 18.15.120. TUBERCULOSIS CONTROL PROGRAM AUTHORIZED.

2 The department may establish a comprehensive program for the control of tuberculosis
3 in the state, and may

4 (1) arrange means by which persons in the state may be X-rayed to
5 determine the presence of tuberculosis;

6 (2) establish necessary out-patient clinics for the care of tuberculosis;

7 (3) encourage and promote the establishment of adequate health care
8 [SANATORIUM] facilities within the state to care for persons suffering from
9 tuberculosis and allied conditions;

10 (4) under the provisions of AS 36.30 (State Procurement Code), obtain,
11 by purchase or donation from surplus federal property or otherwise, medical supplies
12 and equipment useful in carrying out this program and to allot or resell these supplies
13 and equipment to private institutions engaged by the department to carry out this
14 program;

15 (5) under the provisions of AS 36.30, contract with hospitals,
16 associations, or other health care facilities [SANATORIUM] qualified and equipped
17 to give adequate care inside or outside the state;

18 (6) employ necessary and trained personnel to carry out the purposes of
19 AS 18.15.120 - 18.15.149 [AS 18.15.120 - 18.15.140];

20 (7) pay the costs of care and incidental expenses for residents of the
21 state, in whole or in part, depending on the ability of each patient to pay, and the
22 temporary costs of care and transportation for nonresidents on the same basis until they
23 can be transferred to their residence;

24 (8) enlist the cooperation of state, [AND] federal, and local agencies
25 operating in the state for the furtherance of this program;

26 (9) establish standards in accordance with department procedure for the
27 care of persons with tuberculosis [TUBERCULARS] receiving treatment under
28 AS 18.15.120 - 18.15.149 [AS 18.15.120 - 18.15.140];

29 (10) adopt regulations to implement and interpret AS 18.15.120 -
30 18.15.149.

1 * Sec. 3. AS 18.15.130 is amended to read:

2 Sec. 18.15.130. DEPARTMENT TO COOPERATE WITH OTHER
3 AGENCIES. The department, in establishing [CONDUCTING] a comprehensive
4 program for [STUDY AND CASE FINDING SURVEY OF] the control of
5 tuberculosis in the state [PROBLEM], shall cooperate with state, [AND] federal, and
6 local agencies operating in the state, and obtain as much information and data as
7 possible from them.

8 * Sec. 4. AS 18.15 is amended by adding new sections to read:

9 Sec. 18.15.131. REPORTS TO STATE MEDICAL OFFICERS;
10 DOCUMENTATION OF TREATMENT. (a) A health care provider and a laboratory
11 administrator shall report, within five working days, to a state medical officer when that
12 provider or administrator diagnoses a case of tuberculosis or has reasonable grounds to
13 believe that a patient has tuberculosis, or when a patient ceases treatment for
14 tuberculosis. A health care provider and a laboratory administrator may presume that
15 a patient has ceased treatment if the patient fails to keep an appointment or relocates
16 without transferring medical treatment to another health care provider. A health care
17 provider who treats a patient with tuberculosis, and a person in charge of a health care
18 facility that provides treatment for tuberculosis to a patient, shall maintain written
19 documentation of the patient's adherence to the patient's treatment plan.

20 (b) A person required to report under (a) of this section shall permit a state
21 medical officer to examine patient records, reports, and other data related to the
22 required report.

23 Sec. 18.15.133. EXAMINATION OF PERSONS EXPOSED TO
24 TUBERCULOSIS. (a) A health care provider who treats a patient for tuberculosis
25 shall

26 (1) examine all other persons in the household who have had contact
27 with the patient;

28 (2) refer those persons to another health care provider for examination
29 and notify the other health care provider and a state medical officer of the referral; or

30 (3) refer those persons to a state medical officer for examination and

1 promptly notify the state medical officer of the referral.

2 (b) A health care provider who examines other persons in a household under
3 (a)(1) or (2) of this section shall report to a state medical officer, within 10 days after
4 the examination, the results of the examination.

5 (c) Under AS 18.15.135, a state medical officer may order an examination of
6 a person to detect tuberculosis, for the purpose of directing preventive measures for the
7 person, if the state medical officer has reasonable grounds to believe that the person is
8 at heightened risk of exposure to tuberculosis.

9 * Sec. 5. AS 18.15.135 is amended to read:

10 Sec. 18.15.135. TUBERCULOSIS EXAMINATIONS: EXAMINATION
11 ORDERS. (a) A person shall submit to an examination to detect tuberculosis [AN
12 ACTIVE CASE OF PULMONARY TUBERCULOSIS] whenever, in the opinion of
13 a state medical officer [OF THE DIVISION OF PUBLIC HEALTH], an examination
14 is necessary to preserve and protect public health.

15 (b) An examination under this section shall be by written order issued by a
16 state medical officer that must specify the name of the person to be examined and the
17 time and place of the examination. The person to be examined shall be personally
18 served with a copy of the order within a reasonable period of time before the
19 examination is to take place.

20 (c) An examination under this section shall be performed by a physician who
21 may lawfully practice [LICENSED] in the state. The person to be examined may,
22 under conditions specified by the state medical officer, choose the physician who will
23 perform the examination.

24 * Sec. 6. AS 18.15.136 is repealed and reenacted to read:

25 Sec. 18.15.136. ADDITIONAL ORDERS TO PROTECT THE PUBLIC
26 HEALTH. (a) In addition to orders issued under AS 18.15.135, if a state medical
27 officer determines that the public health in general, or the health of a particular person,
28 is endangered by exposure to a person who is known to have tuberculosis, or by
29 exposure to a person for whom there are reasonable grounds to believe has tuberculosis,
30 a state medical officer may issue the orders that the medical officer finds necessary to

1 protect the public from a threat to the public health. An examination ordered under this
2 section shall be performed by a physician who may lawfully practice in the state.
3 Under conditions specified by the state medical officer who issued the order, the person
4 to be examined may choose the physician who will perform the examination. A state
5 medical officer may not under this section order the forcible or involuntary
6 administration of medicine. The state medical officer, through the Department of Law,
7 may make application to a court for enforcement of an order issued under this section.

8 (b) An order issued under (a) of this section may include

9 (1) an authorization for the removal to or admission into, a health care
10 facility for appropriate examination for infectious tuberculosis of a person who is
11 known to have tuberculosis, or of a person for whom there are reasonable grounds to
12 believe that the person has tuberculosis and who is unable or unwilling to submit to an
13 examination ordered under AS 18.15.135;

14 (2) a requirement that a person who has tuberculosis complete an
15 appropriate treatment plan for tuberculosis and, if necessary, follow required infection
16 control precautions for tuberculosis;

17 (3) a requirement that a person be removed to, admitted into, and
18 subsequently detained in, a health facility, if

19 (A) the person has infectious tuberculosis, or presents a
20 substantial likelihood of having infectious tuberculosis, based upon
21 epidemiologic information, clinical findings, X-ray readings, or tuberculosis
22 laboratory test results; and

23 (B) the state medical officer finds that a substantial likelihood
24 exists that the person may transmit tuberculosis to others because of the person's
25 inadequate separation from others;

26 (4) a requirement that a person be removed to, admitted into, and
27 subsequently detained in, a health care facility for treatment if

28 (A) the person has infectious tuberculosis, or has been reported
29 to a state medical officer as having infectious tuberculosis, and the state medical
30 officer has no knowledge that the person has completed an appropriate treatment

1 plan for tuberculosis; and

2 (B) substantial likelihood exists, based on the person's past or
3 present behavior, that the person cannot be relied upon to participate in or
4 complete an appropriate treatment plan for tuberculosis or, if necessary, follow
5 required infection control precautions for tuberculosis; the state medical officer
6 may consider as indicators of unreliability the person's refusal or failure to take
7 medication for tuberculosis, refusal or failure to keep appointments for
8 treatment for tuberculosis, refusal or failure to complete a treatment plan for
9 tuberculosis, or disregard for infection control precautions prescribed by a
10 health care provider or a state medical officer;

11 (5) an authorization for isolation of a person with infectious tuberculosis
12 through detention at the person's place of residence until the state medical officer has
13 determined that the person no longer has infectious tuberculosis.

14 (c) A state medical officer shall issue an order under this section in writing, and
15 in the order shall set out the following:

16 (1) the name of the person required to comply with the order, the period
17 of time during which the order is in effect, and other terms and conditions as the state
18 medical officer determines to be necessary to protect the public health;

19 (2) the legal authority under which the order is issued;

20 (3) an assessment of the person's circumstances or behavior constituting
21 the basis for the issuance of the order; and

22 (4) any less restrictive treatment alternatives that were attempted and
23 were unsuccessful, or less restrictive treatment alternatives that were considered and
24 rejected, and the reasons for the rejection of those alternatives.

25 (d) In addition to the requirements of (c) of this section, an order for the
26 detention of a person must include

27 (1) the purpose of the detention;

28 (2) advice to the person being detained that the person has the right to
29 request release from detention by contacting the state medical officer at the telephone
30 number stated on the order and that, under AS 18.15.139, in the absence of a court

1 order authorizing the detention, the detention may not continue for more than five
2 business days after the request for release:

3 (3) advice to the person being detained that, under AS 18.15.139, the
4 state medical officer is required to obtain, within 60 days following the commencement
5 of detention, a court order authorizing the detention and after that must seek further
6 court review of the detention within 90 days after the court order and within 90 days
7 after each subsequent court review; ~~and~~

8 (4) advice to the person being detained that the person has the right to
9 arrange to be represented by counsel or, under AS 18.85.100, to have court-appointed
10 counsel provided; *and*

11 (e) A state medical officer is not required to obtain a court order before issuing
12 an order under this section for detention of a person.

13 * Sec. 7. AS 18.15.137 is repealed and reenacted to read:

14 Sec. 18.15.137. EMERGENCY DETENTION ORDERS. A state medical
15 officer, through the Department of Law, may request the court to issue an order for the
16 emergency detention of a person when the state medical officer finds that a substantial
17 likelihood exists that the person has infectious tuberculosis in order to prevent the
18 person from posing a threat to the public health. Upon issuance of an ex parte court
19 order, a peace officer or a state medical officer shall take the person into custody and
20 deliver the person to the nearest available health care facility or another location that
21 will provide for the protection of the public health. The state medical officer, through
22 the Department of Law, shall make application for a court order authorizing continued
23 detention of the person within 72 hours after the issuance of an ex parte order or, if the
24 72-hour period ends on a Saturday, Sunday, or legal holiday, by the end of the first
25 state working day following the Saturday, Sunday, or legal holiday. The court shall
26 schedule a hearing within five state working days after receipt of an application for
27 authorization of continued detention.

28 * Sec. 8. AS 18.15 is amended by adding a new section to read:

29 Sec. 18.15.139. COURT AUTHORIZATION OF DETENTION. (a) If a
30 person detained under an order issued under AS 18.15.136 requests release from

1 detention, the state medical officer shall make an application for a court order
2 authorizing continued detention within 72 hours after the request or, if the 72-hour
3 period ends on a Saturday, Sunday, or legal holiday, by the end of the first state
4 working day following the Saturday, Sunday, or legal holiday. The court shall
5 schedule a hearing within five state working days after receipt of the state medical
6 officer's application. After a detained person requests release, detention of that person
7 may not continue for more than five business days in the absence of a court order
8 authorizing continued detention. However, no person may be detained under an order
9 issued under AS 18.15.136 for more than 60 days without a court order authorizing the
10 detention. A state medical officer, through the Department of Law, shall seek further
11 court review of a detention within 90 days following the initial court order authorizing
12 the detention and within 90 days after each subsequent court order authorizing
13 detention.

14 (b) In a court proceeding to authorize or enforce a state medical officer's order
15 under AS 18.15.136 for the detention of a person, the state medical officer must prove
16 the circumstances constituting the necessity for the detention by clear and convincing
17 evidence.

18 (c) A person who is subject to a detention order under AS 18.15.136 has the
19 right to be represented by counsel or to have, under AS 18.85.100, court-appointed
20 counsel provided.

21 • Sec. 9. AS 18.15 is amended by adding a new section to read:

22 Sec. 18.15.143. RELIGIOUS TREATMENT FOR TUBERCULOSIS. If a
23 person with infectious tuberculosis establishes that that person is being provided
24 treatment for tuberculosis by spiritual means or establishes that the person's sincerely
25 held religious beliefs prohibit medical treatment, a state medical officer or the court,
26 in issuing an order under AS 18.15.136, 18.15.137, or 18.15.139, may consider the
27 spiritual treatment or religious beliefs as well as the health of the person and may order
28 that the person only be isolated at the person's home, or other suitable place of the
29 person's choice, in a manner that will protect the public health.

30 (b) A person with infectious tuberculosis who is or might become subject to an

1 order issued under AS 18.15.136, 18.15.137, or 18.15.139, at any time may request
2 recognition and consideration of spiritual treatment or religious beliefs as described in
3 (a) of this section.

4 (c) In this section, "spiritual means" means prayer, or a substantially similar
5 activity, by an established practitioner of a recognized church or religious
6 denomination, in accordance with the tenets and practices of that church or religious
7 denomination.

8 • Sec. 10. AS 18.15.145(a) is amended to read:

9 (a) An employee of a public or private elementary or secondary school in the
10 state shall be tested annually to detect infectious [ACTIVE CASES OF
11 PULMONARY] tuberculosis. An employee who has never had a positive test result
12 from a tuberculin skin test shall obtain a tuberculin skin test. An employee whose skin
13 test result is positive or who has ever had a positive skin test result shall have an
14 appropriate health screening examination that may include obtaining [OBTAIN]
15 a chest X-ray.

16 • Sec. 11. AS 18.15 is amended by adding new sections to read:

17 Sec. 18.15.147. LIMITED IMMUNITY. A person may not bring an action
18 for damages based on the decision under AS 18.15.120 - 18.15.149 to detain or not to
19 detain a person, unless the action is for damages caused by gross negligence or
20 intentional misconduct.

21 Sec. 18.15.148. PENALTY. A person who violates the terms of an order
22 issued under AS 18.15.135 - 18.15.136 is guilty of a class A misdemeanor.

23 Sec. 18.15.149. DEFINITIONS. In AS 18.15.120 - 18.15.149,

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

25 (2) "division of public health" means the division of public health in the
26 department;

27 (3) "health care provider" means an acupuncturist, nurse, nurse
28 practitioner, pharmacist, physician, or physician's assistant, hospital, or health clinic
29 who may lawfully practice in this state;

30 (4) "health care facility" means a hospital, specialty hospital, long-term

1 care facility, medical clinic, or similar facility for which a license has been issued by
2 this state and in which inpatient or outpatient medical services for tuberculosis are
3 provided;

4 (5) "state medical officer" means a physician employed by the division
5 of public health;

6 (6) "tuberculosis" means a disease caused by mycobacterium
7 tuberculosis, mycobacterium bovis, or mycobacterium africanum.

8 • Sec. 12. AS 18.85.100(a) is amended to read:

9 (a) An indigent person who is being detained by a law enforcement officer in
10 connection with a serious crime, or is under formal charge of having committed, or is
11 being detained under a conviction of a serious crime, or is on probation or parole, or
12 is entitled to representation under the Supreme Court Delinquency or Child in Need of
13 Aid Rules, or is detained under an order issued under AS 18.15.120 - 18.15.149 or
14 against whom commitment proceedings for mental illness have been initiated, is entitled

15 (1) to be represented by an attorney to the same extent as a person
16 retaining an attorney is entitled; and

17 (2) to be provided with the necessary services and facilities of this
18 representation, including investigation and other preparation.

19 • Sec. 13. AS 18.15.138 is repealed.

20 • Sec. 14. The Department of Health and Social Services may immediately proceed to
21 adopt regulations to implement the changes made by this Act. The regulations take effect
22 under AS 44.62 (Administrative Procedure Act), but not before July 1, 1995.

23 • Sec. 15. Section 14 of this Act takes effect immediately under AS 01.10.070(c).

24 • Sec. 16. Except as provided in sec. 15 of this Act, this Act takes effect July 1, 1995.

SB 138

Amendment #1

1 Page 1, lines 1 - 2:

2 Delete ", including provisions for certain penalties"

3 Page 7, line ~~4~~ 7:

4 Delete "and"

10

5 Page 7, line ~~4~~, after "provided":

6 Insert "; and

7 (5) advice to the person being detained that the person has the right
8 to elect whether a proceeding providing court review is open or closed to the public"

9 Page 8, after line ~~19~~ 20:

10 Insert a new subsection to read:

11 "(d) A person who is the subject of a court proceeding initiated under
12 AS 18.15.136 or 18.15.137 may elect to have the hearing open or closed to the
13 public."

14 Page 9, lines ~~20-21~~ 21-22:

15 Delete all material.

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

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

March 23, 1995

Honorable Lyda Green
Chair
Senate Health, Education and
Social Services Committee
Room 423 State Capitol
Juneau, AK 99801-1182

Dear Senator Green,

Senate Bill 138 "An Act relating to the state's tuberculosis control program, including provisions for certain penalties, and providing for an effective date" has been referred to the Senate Health, Education and Social Services Committee for consideration. The bill was introduced by the Senate Rules Committee at the request of the Governor.

The Department of Health and Social Services respectfully requests the Senate Health, Education and Social Services Committee to hold a hearing on Senate Bill 138.

The impetus for the bill was a recent case in this state in which a patient, due to a chronic alcohol problem, was unable or unwilling to follow through on a treatment plan and to follow recommended safeguards to protect the public. The state had to seek court orders to enforce a treatment plan. The Department of Law has advised the Department of Health and Social Services that laws on this subject need to be updated to explicitly recognize due process requirements of the United States and Alaska constitutions.

While the Department of Health and Social Services anticipates that the involuntary detention and commitment provisions in the bill will be used only rarely because most people will voluntarily take treatment and use safeguards when advised by a medical professional, the bill is necessary to allow a system to be in place to respond quickly in a crisis situation.

Your favorable consideration of this request will be appreciated.

Sincerely,



Elmer A. Lindstrom
Special Assistant to the Commissioner

TONY KNOWLES
GOVERNOR



130
P O Box 110001
Juneau Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 21, 1995

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to update the state's tuberculosis control program to ensure that our statutes expressly recognize constitutional requirements when the state must order a person involuntarily detained or confined for essential medical testing or treatment or to protect the public health. The bill also makes miscellaneous amendments to recognize new developments in the field and to improve the reporting requirements for a case involving a person with tuberculosis.

Tuberculosis is still a serious public health problem in Alaska. Tuberculosis is a disease that can be spread through fairly routine contact such as coughing in a confined, crowded area. In 1994, tuberculosis was diagnosed in several outbreaks in rural villages in Alaska. Tuberculosis can be successfully treated, but the treatment requires a patient to take medication for six months to 24 months. Since some patients face lifestyle problems that make it difficult for that patient to voluntarily successfully complete the entire course of treatment or to isolate themselves from the public to protect the public health, it is sometimes necessary for orders to be issued and enforced to ensure that the patient is following the treatment plan or is isolated from the public. If treatment is prematurely abandoned, a patient's tuberculosis can become more resistant to treatment and place the public at risk of catching an even more difficult form of this disease in the future.

The state's tuberculosis control program and involuntary detention laws should be revised to explicitly recognize constitutional safeguards required in order to quickly respond to tuberculosis incidents and to detain or confine a person if that person is unable or unwilling to undergo treatment and is a threat to the public health. While the Department

The Honorable Drue Pearce

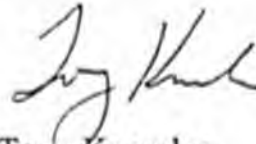
March 21, 1995

Page 2

of Health and Social Services anticipates that the involuntary detention and commitment provisions in the bill will be used only rarely because most people will voluntarily take treatment and use safeguards when advised by a medical professional, the bill is necessary to allow a system to be in place to respond quickly in a crisis situation.

I urge your support of this bill in response to an important public health issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles
Governor

FISCAL NOTE

No. 3

Bill Version: SB138

(S) Publish Date: 3/22/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to the state's tuberculosis control program"
 Sponsor: Rules Committee
 Requestor: Governor

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	00	0	0	0	0	0
-----------------------------	----	---	---	---	---	---

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The Public Defender (PD) has no information regarding the extent to which tuberculosis is a problem in this state, or the frequency with which this bill would be used in a way which would trigger PD representation. Assuming that involuntary detention for tuberculosis diagnosis/treatment will be infrequent, the PD anticipates no fiscal impact.

Prepared by: John B. Salemi, Director
 Division: Public Defender Agency

Phone: (907) 254-4412
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 3/16/95

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FISCAL NOTE

No. 2

Bill Version: SB 138

(S) Publish Date: 3/22/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to the state's general tuberculosis control program ..."
 Sponsor: Rules
 Requestor: _____

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	00	00	00	00	00	00

CAPITAL EXPENDITURES	0	0	0	0	0	0
-----------------------------	----------	----------	----------	----------	----------	----------

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

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	00	00	00	00	00	00

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Office of Public Advocacy.

Prepared by: Brant McGee, Director
 Division: Office of Public Advocacy

Phone: 274-1694
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 3/16/95

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FISCAL NOTE

No. 1

Bill Version: SB 138

(S) Publish Date: 3/22/95

**STATE OF ALASKA
1995 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to the state's tuberculosis control
program including provisions for certain penalties..." BRU: Legal Services
 Sponsor: Rules by Request of the Governor Component: Operations
 Requester: Governor's Office/OMB COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would update the state's general tuberculosis control program and the involuntary detention laws for those persons who have infectious tuberculosis but are unable or unwilling to seek treatment or take safeguards to protect the public against infections. The bill seeks to correct deficiencies in the existing law in respect to recognizing due process requirements of the United States and Alaska constitutions. The bill will allow the court to address the merits of the decision of confinement in these cases rather than focus its review on arguments regarding alleged constitutional deficiencies in the process to support a detention decision. This is corrective legislation that does not have an effect on the existing caseload, and there will not be a fiscal impact.

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 3/15/95
 Date: 3/15/95

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Att. Thru Clerk

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907)451-2311
FAX: (907)451-2846

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

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 10, 1995

RECEIVED APR 12 1995

(FAX) 465-2539

Honorable Mike Miller
Alaska State Senate
Room 125, State Capitol
Juneau, AK 99801-1182

Re: Proposed amendments to SB 138:
Tuberculosis Control

Dear Senator Miller:

Your staff has requested a brief explanation of the amendments that have been proposed for SB 138 regarding tuberculosis control. The amendments change the original bill in two ways:

- 1) eliminating the criminal penalty for failure to comply with a tuberculosis control order; and
- 2) providing for the subject of a tuberculosis control order to choose whether a court proceeding is to be open or closed to the public.

These are important improvements to the bill because of the sensitivity of court proceedings related to state action in response to individuals who are ill. In order to assure that the public will appropriately continue to seek testing and health care, state public health officials believe it is necessary to assure individuals that their reasonable expectation of privacy of their medical records will be respected. Open criminal proceedings against people who are sick with tuberculosis work against the public perception that state medical officials are acting on a patient's behalf when they undertake to protect the public health by means of an examination or treatment order.

The criminal provision was retained in the original version of SB 138 only because it is currently in the tuberculosis control statute. Under the current law, the filing of a criminal proceeding is the only method available to public health officials to enforce a tuberculosis control order from the state medical officer. This method is ineffective, in part, because the court system generally does not look upon sick people as appropriate subjects of criminal penalties. Under the proposed SB 138, the

Honorable Mike Miller
Alaska State Senate
Re: SB 138

April 10, 1995
Page 2

state medical officer will have a number of options for the enforcement of an order that will include full review by a court, and in circumstances of the most resistance from an individual who requires treatment and quarantine, a civil contempt action based on a court order will make it possible to achieve the desired result. Therefore, a criminal penalty provision is not necessary for the success of a tuberculosis control program and may pose the danger of deterring people from seeking necessary treatment.

A provision to allow the subject of a proceeding to decide whether the proceeding is open to the public did not appear in the original version of the bill because of a drafting oversight. To allow an option for a closed proceeding is consistent with the general expectation that health matters are entitled to privacy and is consistent with the proceedings concerning court review of other health matters by the court, i.e., civil mental commitments. The problems of open tuberculosis control proceedings became apparent late last year when it was necessary for the state to prosecute a person in Kotzebue under the criminal provisions of the current TB law. The open proceeding received a great deal of exposure from the local press, and it was necessary for the state medical officer to seek to close subsequent civil proceedings to protect the subject of the proceeding from further press attention. It is believed that exposing a person's medical history to public scrutiny in the press may undermine the essentially benign nature of the actions taken by the state medical officer to protect the public health through tuberculosis control measures.

Please feel free to contact me if you have any further questions about the bill or the proposed amendments.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


Kristen F. Bomengen
Assistant Attorney General

KFB/bap

cc: Pat Pourchot
Bruce M. Botelho
Barbara Ritchie
Deborah E. Behr



Department of Health and Social Services
Karen Perdue, Commissioner

Division of Public Health
Peter M. Nakamura, MD, MPH, Director

Section of Epidemiology
John Miarlaugh, MD, Editor

3601 C Street, Suite 576, P. O. Box 240249, Anchorage, Alaska 99524-0249 (907) 561-4406

Bulletin No. 8 March 9, 1995

Village Tuberculosis Outbreaks -- Update

There were 93 tuberculosis (TB) cases among Alaska residents during 1994. This is the largest number of cases since 1985 (when 110 cases were reported) and a 50% increase over the average of 62 cases annually between 1986 and 1993. Forty-six (49.5%) of the 93 cases during 1994 were outbreak-associated; that is, they were part of three or more epidemiologically linked cases. Outbreak-associated cases occurred on St. Lawrence Island (Gambell and Savoonga), in the Yukon-Kuskokwim Delta (Hooper Bay, Scammon Bay, Mountain Village, Chevak, and Lower Kalskag), and in St. Paul.

There has been an intensive public health response to the outbreaks. Community health aides, public health nurses, physician assistants, x-ray technologists, and physicians from Regional Health Corporations, the Indian Health Service, and the private sector have teamed up with Division of Public Health staff from the Sections of Laboratories, Nursing, and Epidemiology to conduct comprehensive field investigations in each affected community. As of March 3, 3,020 persons have had tuberculin skin tests, 810 persons have had chest x-rays, and 1,369 sputum specimens have been collected (Table 1). In addition to the TB cases mentioned above, testing has led to identification of 84 tuberculin skin test converters and 99 skin test reactors. More than 200 persons have been started on antibiotics to treat or prevent tuberculosis.

Update of outbreaks:

● **Savoonga:** A public health team made a follow-up visit between February 2 and 10. PPD skin tests were placed on 247 of 265 previously negative residents. Testing identified 20 converters (in addition to 18 converters already identified). A total of 76 sputum specimens from 27 persons were collected for acid-fast bacilli (AFB) smear and *Mycobacteria* culture. Fifty-seven persons had a chest x-ray during the visit. Arrangements for directly observed therapy (DOT) were carefully reviewed or established to ensure that all 38 converters and 8 cases were receiving appropriate medication(s).

● **Gambell:** This community was revisited during February 6-11. Eight skin-test converters and two reactors were

identified as a result of placing 377 tuberculin skin tests. Twenty-three sputum samples were collected from 12 persons. Chest x-rays were obtained on 64 residents. Again, DOT arrangements were reviewed or established to ensure that all persons for whom medication(s) were prescribed were taking the medication(s).

● **St. Paul:** Follow-up visits were conducted during the weeks of January 16 and February 13. Tuberculin skin tests were placed on five persons previously identified as close contacts of active cases; all were negative. Treatment regimens for all six TB cases were reviewed; five were modified to isoniazid (INH) and rifampin since each had already completed more than 2 months of four drugs (INH, rifampin, ethambutol, and pyrazinamide) and had fully sensitive *Mycobacterium tuberculosis* isolates.

● **Yukon-Kuskokwim Delta:** Public health teams visited the villages of Chevak, Hooper Bay, Mountain Village, and Scammon Bay during January 9-23. The numbers of previously negative residents skin tested were, by village, Chevak, 458; Hooper Bay, 545; Mountain Village, 581; and Scammon Bay, 303. No new PPD positive persons were found in Hooper Bay, but 10 new positives were found in Scammon Bay, and 2 each were found in Mountain Village and Chevak. Overall, 537 sputum specimens were collected from 209 persons. Based on symptom reviews or PPD skin test results, the teams identified 240 persons who needed to have a chest x-ray. Because of difficulties with the x-ray equipment, x-rays could not be obtained during the January field investigation. A team revisited the four villages and obtained 189 x-rays during the week of February 28.

During February through June 1994, public health nurses from the Bethel Health Center made several visits to Lower Kalskag and Russian Mission to investigate TB cases and their contacts. A record review showed that, in addition to 9 TB cases, there were 122 other persons investigated. Among these, 72 had a PPD, 29 had a chest x-ray, and 101 sputum specimens were collected. As a result of this follow-up, 29 persons were placed on INH.

Table 1. Selected characteristics of tuberculosis outbreaks, 1994-1995*

Village	Population	PPD Status [†]			CXR's	Sputum Specimens	Cases
		Converter	Reactor	Negative			
Chevak	822	2	1	455	34	75	1
Gambell	643	29	35	377	206	239	13
Hooper Bay	1,257	0	1	544	31	85	2
Lower Kalskag [‡]	291	9	16 [§]	47	29	101	9
Mountain Village	952	0	5	573	79	221	2
Savoonga	618	38	26	274	316	355	8
Scammon Bay	477	5	5	306	45	149	8
St. Paul	665	1	10	261	70	144	6
Total	5,725	84	99	2,837	810	1,369	49

* Through 1/1/95

[†] Results shown include persons skin-tested as part of the TB outbreak investigation. Persons known to be PPD positive from previous testing were not included in this part of the table.

[‡] The PPDs, CXRs, and Sputum Specimens reported for Lower Kalskag include contacts evaluated in Russian Mission.

[§] As many as 10 of the 16 persons classified as reactors may have been converters. Available information was incomplete.

SB

156

02/21/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150

09:26:26 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC

TCN:60390 SCHEDULED FOR:02/21/96 09:15 TO 11:00 FOR:ANC

PUBLIC HEARING SENATE HEALTH, EDUCATION & SOCIAL SERVIC

LOCATION:ANCHORAGE

SB 156 } ✓ MARY ANNE DEARBORN DEARBORN FAM MEDTESTIFY ✓

SB 156 } SB156 ✓ WILLIAM COTTON AR JUD COUN TESTIFY ✓

SB 156 } ✓ DIANA BUFFINGTON CHILD RIGHTS TESTIFY

02/21/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150

09:42:51 PARTICIPANT LIST (ALL PARTICIPANTS) BY:MAT

TCN:60390 SCHEDULED FOR 12/21/96 09:15 TO 11:00 FOR:MAT

PUBLIC HEARING SENATE HEALTH, EDUCATION & SOCIAL SERVIC

LOCATION:MATSU

SB 156 ✓ MS CAROL PALMER Victims of Custody TESTIFY ✓

SB 156 ✓ MS DIANE LO RUSSO TESTIFY ✓ domestic violence

SB 156 ✓ MR ROBERT SHUMAKER TESTIFY ✓

"Mediation It's up to You"

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 12, 1995

SUBJECT: Mediation of Child Custody Disputes (SB 156)

TO: Senator Lyda Green
Attn: Peter

FROM: Terri Lauterbach
Legislative Counsel 

You have asked for a sectional analysis of SB 156, a bill relating to mediation of child custody disputes.

Section 1.

Amends the current mediation statute in the following ways:

(1) requires a court to order mediation of child custody disputes with an exception for extraordinary circumstances to cover situations where mediation might not be appropriate.

(2) expands the mediation requirement to include modification actions.

(3) allows the parties to choose the mediators, if there is no agreement, then the court may appoint up to three mediators from specified fields of expertise.

(4) extends the time period for mediation to 90 days.

(5) requires an award of custody to the cooperative party if there's a noncooperative party unless the court finds this would not be in the best interests of the child(ren).

(6) requires an award of custody as agreed by the parties unless the court finds this would not be in the best interest of the child(ren).

(7) allows the court to assess the costs of mediation according to the financial resources of the parties and whether they participated in mediation with good faith.

Senator Lyda Green
April 12, 1995
Page 2

Section 2.

Amends the current statute on custody modification actions in the following ways:

(1) requires a court to accept mediated modifications of custody or visitation without the need to show a change in circumstances unless the court finds that the modification would not be in the best interests of the child(ren),

(2) provides that relocation of a child constitutes a change of circumstances for purposes of modification of a child custody award that involves shared physical custody; the extent of modification would still have to be mediated;

(3) provides that denial of visitation constitutes a change of circumstances for purposes of modification of a child custody award that involves visitation rights; the extent of modification would still have to be mediated.

Section 3.

Clarifies that the changes in this bill apply to petitions for child custody or for modification of child custody awards that are filed on or after the effective date of the bill.

Sections 4 - 5.

These sections note that the current court rule on mediation is amended by the bill with the proper 2/3 vote.

Section 6.

Gives the bill an immediate effective date.

TML klb
95-262 klb

ALASKA STATE LEGISLATURE

Information
165 East Park Highway, Suite 106
Wasilla, Alaska 99654-7035
(907) 376-3370



Session
State Capitol
Juneau, Alaska 99801-1192
(907) 463-0000
Fax 463-3805

SENATOR LYDA GREEN
SENATE DISTRICT N

SB 156 **"Mandatory Mediation"**

Sponsor Statement

SB 156 was introduced to help families involved in child custody disputes resolve their differences regarding child custody through mediation, a more relaxed and less costly process.

The legislation proposes to change current mediation law in the following ways:

- Requires a court to order mediation of child custody disputes with an exception for extraordinary circumstances to cover situations where mediation might not be appropriate;
- Expands the mediation requirement to include modification actions;
- Allows the parties to choose the mediators; if there is no agreement, then the court may appoint up to three mediators from specified fields of expertise;
- Extends the time period for mediation from 30 days to 90 days;
- Requires an award of custody to the cooperative party if there is a noncooperative party, unless the court finds that this would not be in the best interest of the child(ren);
- Requires an award of custody as agreed by the parties unless the court finds that this would not be in the best interest of the child(ren);
- Allows the court to assess the costs of mediation according to the financial resources of the parties and whether they participated in mediation with good faith.

SB 156 Sponsor Statement
Page 2

SB 156 also amends the current statute on custody modification actions in the following ways:

- Requires a court to accept mediated modifications of custody or visitation without the need to show a change in circumstances unless the court finds that the modification would not be in the best interest of the child(ren);
- Provides that relocation of a child constitutes a change of circumstances for purposes of modification of a child custody award that involves shared physical custody; the extent of modification would still have to be mediated;
- Provides that denial of visitation constitutes a change of circumstances for purposes of modification of a child custody award that involves visitation rights; the extent of modification would still have to be mediated.

In addition, the legislation clarifies that the changes in this bill apply to petitions for child custody or for modification of child custody awards that are filed on or after the effective date of the legislation.

SB 156 will help families with child custody disputes by providing a mandatory mediation process, instead of a costly and often confrontational custody hearing in court. Mediation offers families a helping hand through the process and often saves all parties time, money and unnecessary stress and anxiety.

9-LS0754\K
Lauterbach
1/29/96

CS FOR SENATE BILL NO. 156(HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR GREEN

A BILL
FOR AN ACT ENTITLED

1 "An Act requiring a court to order parties involved in child custody or visitation
2 matters to attend an educational presentation about mediation."

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

4 * Section 1. AS 25.20 is amended by adding a new section to read:

5 Sec. 25.20.075. MANDATORY ATTENDANCE AT EDUCATION COURSE
6 RELATING TO MEDIATION. (a) After a petition for child custody is filed under
7 AS 25.20.060, a petition to modify an award of custody or visitation is filed under
8 AS 25.20.110, or an action for damages for failure to permit visitation is filed under
9 AS 25.20.140, the court shall order the parties to attend an educational presentation
10 approved by the court that explains the concept of mediation.

11 (b) When implementing (a) of this section, the court may not require that the
12 parties attend the educational presentation at the same time.

13 (c) An educational presentation approved by the court under this section must
14 be a video cassette, audio cassette, or vocal presentation, that includes an explanation that

or where necessary, written materials

1 (1) mediation is a conflict resolution process, usually engaged in
2 voluntarily, in which a trained impartial third party assists the parties to negotiate a
3 consensual and informed settlement;

4 (2) mediation is based on principles of problem solving that focus on the
5 needs and interests of the participants, fairness, safety, confidentiality, self-determination,
6 and the best interests of all parties and other persons who the parties agree are affected;
7 and

8 (3) the role of a mediator is not to make decisions for the parties or to
9 report to a court about the mediation process but does include reducing the obstacles to
10 communication, maximizing the exploration of alternatives, and addressing the needs of
11 the persons who the parties agree are affected.

Dearborn Family Mediation

20 October 1995

Senator Lyda Green -- FAXed to 258-1261 (8 pages)
HESS Committee
716 W. 4th, Suite 350
Anchorage, Alaska 99501

RE: SB 156 - Mandatory Mediation in appropriate Child Custody and Visitation Disputes.

PRESENTED FOR THE OCTOBER 20TH MEETING: 9:00 AM

Greetings:

Please accept my comments regarding SB 156 and my appreciation for your interest in making mandatory exposure to the mediation process available in appropriate cases to all Alaskans who are involved in child custody disputes.

I offer these personal comments as a family mediator with my own private practice, Dearborn Family Mediation. I hold practitioner status among the international membership of the Academy of Family Mediators, 4 Militia Drive, Lexington, MA 02173. I teach family and divorce mediation for the University of Alaska Anchorage (Mat-Su College and Anchorage). I am current president of the only state wide professional association for mediators, arbitrators, and facilitators: The Alaska Dispute Settlement Association. I act as community advisor, mediator, and mentor for the Community Dispute Resolution Center, providing Victim Offender Mediation to the Anchorage community. I am "Family Mediator Advisor" to the Alaska Parenting Magazine, an Alaska educational newspaper. Prior to my mediation training and professional mediation practice, I worked as a civil procedure specialist in the field of family law, first for law firms in Anchorage focused on litigation and appeals (6 years) and later for the Alaska Court system (11 years).

My comments are governed by professional ethics, represented by the standards of the Academy of Family Mediators, attached to this letter.

1. I support mandatory exposure to the mediation process in all appropriate cases involving child custody or visitation. Mediation is a voluntary, confidential process, based on self-determination. Mandatory exposure to the process (known as an orientation) frequently influences individuals to proceed and willingly participate in mediation.



CORRESPONDENCE

20 October 1995
Lyda Green; SB-156
Page two

2. I support equal access to a mandatory exposure to the mediation process in all appropriate cases involving child custody or visitation. Equal access should be provided to all who fall within the population of any legislation which is mandatory; Mediation fees should be covered by the state in all cases in which the parties are determined to be indigent, such as is done in court cases when the court filing fees are waived. Legislators have a duty to provide companion legislation to cover the costs of those indigents who fall within the category of litigants engaged in child custody or visitation cases in which mediation would be mandated.

3. I support NONexclusive language for those who would serve as mediators under SB-156. Family mediators who have met the professional standards, such as those set by the Academy of Family Mediators (see attached), and have had appropriate training -- including specific training in family and domestic violence mediation -- should be included, regardless of professional background. The Alaska Legislature should not be setting standards different from those of professional organizations or for that matter standards represented as being required by our own court system (SEE Court Directory of Mediators). Holding a degree in any profession does not qualify any individual to be a family mediator or to be considered knowledgeable in areas of family and domestic violence dynamics, or family mediation.

4. It is particularly important that mediators be educated on and trained in family mediation with the domestic violence component. To perform effectively as a mediator, individuals must be trained in and/or have proved proficiency in performing as a mediator. Training in family mediation, including violence issues, should be mandatory in the areas identified by your legislation: child and visitation disputes. Child custody and visitation disputes frequently have elevated emotional factors and present questions of safety for all concerned. This is true even in cases where there has been no violence in the past. Participants may not report violence which has occurred or been threatened. In those cases, mediators must be aware of and trained in how to recognize and deal with domestic violence issues.

20 October 1995
Lyda Green; SB-156
Page three

5. I support nonpunitive actions by mediators. Mediators are to be impartial, neutral third parties who do not create bias within a relationship; A mediator's report which has the effect of creating a bias (punitive result) is unethical. The mediation process is not a weapon. SB-156 and its requirement for a report which effectively would remove custody from one party and award it to the other is a violation of the profession of mediation and any mediator who would adopt that behavior is, in my opinion, in the position of exercising a serious breach of professional ethics.

Thank you for your consideration. I welcome further discussion on any of the foregoing.

Best wishes on your efforts to bring mandatory exposure to the mediation process to all Alaskans.

Cordially,

DEARBORN FAMILY MEDIATION



Mary Ann Dearborn, Mediator

Enclosures:

Academy of Family Mediator Practitioner Training and Educational Standards

Academy of Family Mediator's Professional Standards (4 pages)

Senators Green, Leman, Miller, Ellis and Salo...My name is Diana Buffington, Vice-President of The Children's Rights Council of Alaska. CRC has 39 chapters in 30 states and three national affiliate organizations: Mothers without Custody, Parents without Partners, and the Stepfamily Association of America.

As a local chapter of the national organization we are committed to strengthening families through public education and advocacy.. Family formation and preservation is ultimately favored. However, in the event of a break up or a family is never formed, we support the **child's right** to frequent, continued and meaningful contact with **both parents** and their extended families.

We work to demilitarize divorce between parents who are involved in marital disputes, substituting conciliation and mediation for the adversarial process, and providing for comprehensive child support.

Mandatory mediation should not replace our courts. Mediation should be a tool of the court; be an objective investigative arm of the court. We support mandatory mediation, if it ensures issues regarding the balance of power among parties are resolved. We support mandatory mediation, if it removes the present absurdities and the inequalities in the divorce process. We support mandatory mediation if it doesn't drive or force away the non-residential parent.

We must develop a **win/win** situation in the divorce process. In the current Alaska divorce, custody/visitation, and child support process we have developed a very adversarial climate, that perpetuates conflict between the parents. The system pits one parent against the other. The fact that two people can't get along, for what ever reasons, and are divorcing should not result in children losing a parent. Ultimately, this is a detriment to the best interest of the child. Where ever possible, a child who has two parents before the divorce, should have two parents after the divorce. **We need to move past the idea that one parent gets the kids and the other parent becomes only a visitor who sends a check.**

Sanford Braver, Ph.D., a \$1 million federally funded researcher through the National Institute of Child Health and Human Development and psychology professor at Arizona State University, Tempe, Arizona says his research found that most non-residential parents (mostly fathers) do not withdraw their emotional or financial support. For those who had seemingly "withdrawn," Braver noted that "their experience was not one of 'withdrawing' at all. Rather, they felt expelled, kicked out, thrust out of their children's lives. They felt that the system, their ex-spouses, and society's attitude in combination seemed to combine in such a way as to just get them out of their kid's lives, so non-residential parents felt the kids really weren't their kids anymore. This unfair treatment has to stop for the sake of our children, the next generation of parents.

SB156 as it is currently written, also perpetuates this "withdrawal" process. Sole custody or mandatory mediation that results in sole custody is inherently unfair to the children. The proper way to fix the problem is not through more draconian enforcement procedures as set forth in SB156. The mediation part of the proposal is not the problem with SB156.

Braver's research shows that "if we adopt a policy of a presumption for joint legal custody, we will have better child support payments, children will have more contact with fathers, we will not have more conflict...we have more communication, we will not have worse parenting on the part of parents. Most important of all, we will have better adjusted children." When you add mediation to presumptive shared parenting, you have designed a far reaching positive influence on the current system.

We are here to develop statewide awareness of alternative legislation and language which fosters the goal of presumptive shared parenting. The "**Best Parent is Both Parents**". Shared parenting, is generally defined as when "both parents retain the rights to make decisions about their children's lives that they enjoyed prior to the divorce.

We need a law that tells mediators and judges to make a rebuttable presumption that shared parenting is in the best interest of the child. Our present law allows judges to award shared parenting (shared custody), but does not presume that such an arrangement is a positive improvement for the child.

The current draconian enforcement procedures are the evidence that (the enforcement bureaucracy), about a \$2 billion enterprise has had fantastically little success...it laces the system with inherent abusive powers...it only slows or stops any positive moves between parents and children. Returns expected from these punitive measures are mostly sparse or moderate at best. However, things that would work are really quite inexpensive in comparison, almost free. Most importantly, establishing a presumption for shared parenting as the rebuttable judicial presumption in divorce cases or modification of custody/visitation should go a long way toward solving most of these problems.

The Children's Rights Council of Alaska requests a hold on all family law legislation..including divorce, custody/visitation, child support laws, changes in administrative codes, and agency policies and procedures, affecting Alaska Superior Courts and CSED. In the next few weeks we will offer each member of this committee a copy of "Child Support Guidelines: The Next Generation. This publication was made possible through a contract between the American Bar Association Fund for Justice and Education and the Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services. The Child Support Guidelines: The Next Generation is a blueprint for which to formulate new Alaska statutes and replacement of many of our current passé' and unfavorable laws.

Many states have or are in the process of passing CRC guidelines. Texas passed this new law June 16, 1995, and took effect September 1, 1995. Many of the amendments that are sorely needed and encouraged for SB156, were included in the Texas law.

However if you feel you must make a decision concerning this legislation, we suggest the following amendments to SB156.

1. All mediation procedures should presume shared parenting.
2. Require each parent to inform the other parent of "significant information concerning the health, education and welfare of the child".
3. Develop a "good faith" definition clause with well defined guidelines for the mediators.
4. Change the wording "in the best interest of the child" to "a positive improvement for the child".
5. A mediator or court should honor the parents' wishes in custody/visitation. Parents know their children best.
6. Require parents make an attempt to solve custody/visitation disputes through mediation. Allow parents to agree to binding arbitration. In the event a mediation solution is not reached, the case goes to court, without reprisals or disfavorable reports by the mediators.
7. Do not take the custody or the rights of a parent away because he/she is not acting in a broadly or well defined term as "good faith". As currently written, even a well defined "good faith" is still a term that will be open to broad interpretation, even by objective mediators. You cannot allow custody/visitation to become a punishment nor a prize to be won in custody/visitation mediation. Remember, almost all families experience conflict at the time of divorce.
8. Allow separate mediation for parents/families who have suffered domestic violence. We cannot deny civil/legal due process of parents suffering domestic violence. Mediation of custody/visitation is probably more important in this scenario. Amend the bill to read "...domestic violence against either parent or a child shall be a factor in any custody or visitation determination. If conflict were used as a criterion for shared parenting or mediation, we would be in a position of reenforcing and promoting conflict on the part of those who want to defeat shared parenting and mediation and to secure only sole custody decisions.

9. Allow custodial and non-custodial parents as mediators, or included in the mediation process. These are parents who have personal experience with the current system, and can assist or better resolve issues that come up in mediation. A second chance if you will.
10. Make it easier to shift sole custody of a child of any age to the other parent by showing the change would be "a positive improvement for the child", thus eliminating the need to show "injury" to the child in the previous household.
11. Give non-residential parents more rights, including make-up of visitation. Set statutes with mandatory enforcement and adherence, including penalties for residential parents that willfully deny visitation or custodial periods to non-residential parents.
12. Allow children age 12 and up a part of the mediation process. Mediators will make the children's position known through their report to the court.
13. A mediator can only invite a guardian ad laudum, if the mediation process begins to fail, to assist the mediator in his report to the court for the positive improvement for the child.
14. Strengthen the law that discourages false abuse allegations.

It has been my experience, that if a bill doesn't feel right...it's probably morally wrong. SB 156 just doesn't feel right. although mediation is a good idea, this bill has too many flaws in it to make a just law and a positive improvement for the children of Alaska.



alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1981 (907) 279-2526 FAX (907) 276-5046

EXECUTIVE DIRECTOR
William T. Coston

March 13, 1995

NON-ATTORNEY MEMBERS
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CHAIRMAN, EX OFFICIO
Daniel A. Moore, Jr.
Chief Justice
Supreme Court

Senator Lyda Green
State Capitol, Room 423
Juneau, AK 99801-1182

Dear Senator Green:

Thank you for sending me the draft copy of your mediation legislation. I applaud its emphasis on mediation rather than court mandates for resolving child custody disputes. Our research (which I sent you last week) showed the benefit of this approach. More specifically, the extension to 90 days for the time to mediate is a needed change to make the mediation time period realistic. Also, requiring people to try mediation, with appropriate exceptions (for example, cases involving a history of domestic violence), is, I believe, appropriate.

I am a bit leery of requiring the parents to continue mediation after the initial session and of having the mediator testify at a later court hearing about the parties' good faith efforts. Successful mediation requires the cooperation of both parties, and a neutral mediator whom the parties can count on not to take sides. My recommendation would be to make only the introductory session mandatory and not to have the mediator testify. Jurisdictions that mandate attendance at an introductory session find that parents often want to continue with the mediation process once they understand what it is.

On a more technical level, I always prefer statutes changing court rules to set out the new text of the rule rather than just saying the rule is changed by the statute. Specifying the new language makes using the amended rule much easier. Legislative drafting could probably come up with appropriate language.

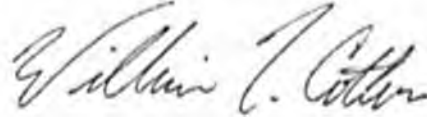
Finally, the draft states that the state will pay for mediation if both parties are indigent. It would be helpful to specify a few more details of how this would work.

MAR 16 1995

Senator Lyda Green
March 13, 1995
Page 2

Again thanks for sending me a copy of the draft. The one thing that was abundantly clear in our research, was that while courts must be open to resolve custody disputes, they are not the best place to resolve custody.

Very truly yours,



William T. Cotton
Executive Director

WTC:sl

MAR 16 1995

Kelli Ray
P.O. Box 871722
Wasilla, Alaska 99687
(907) 376-6535

H.E.S.S. Committee
State Capitol
Juneau, Alaska 99801-1182
Interdepartmental Mail Stop 3762

April 19, 1995

To Whom it May concern:

I am the treasurer of the newly formed group, "Victims of Custody" and I am very pleased with the progress that we as a group have accomplished.

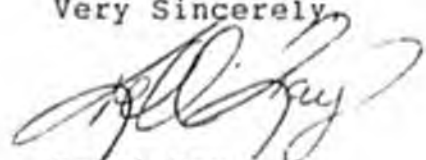
I understand that Senate Bill 156 is now before you for consideration. I would hope that you would strongly support our Mandatory Mediation bill. I believe that it is a very fair and appropriate measure needed in this state.

I am sure that you are very much aware of some of the horror stories that many Alaskans have about divorce and custody of their beloved children. I believe that with the passing of this bill and the serious acknowledgement taken due to the passing of Senate Bill 156, these incredible horror stories will begin to diminish and allow the parting parents and children both to feel better about the already very dramatic changes in their lives that are caused by divorce and custody matters.

Please support our Mandatory Mediation bill, Senate Bill 156 and let's together begin to lessen the pain that is felt by all involved when such a thing arises in the lives of our fellow Alaskans.

Thank you for your time and consideration in this matter.

Very Sincerely,



Kelli Ray
Treasurer

MAY 30 1995

September, 22, 1995
HESS committee
Senator Lyda Green, chairperson
600 E. Railroad Avenue
Wasilla, AK 99654

I wish to submit written testimony for inclusion in the printed record of the hearing. In Montana, I lost custody of my two boys during their visit Christmas 1994; to a physician father who is now living in Talkeetna, AK. This man admitted 1) *child abuse*: 1981 to 1987; 1981 marriage counselling due to domestic violence, 1987 counseling due to charges by DSS and 2) *multiple psych. interventions* over a 12 year period: med. school '80-81; needing a lawyer to graduate; internship '81; psych. hosp. '89, outpt. several years following. *Mandatory evaluations for drug abuse* include '87, '89, and '91. Presently he notes relying on his wife (they met while patients in an alcohol/drug facility '91) to monitor emotional balance related to *PTSD and Depression* as a Korean war orphan and later an abused child in his adopted family. *Despite Jim's court order for my 5 day inpatient evaluation 7/94; I came up healthy and have no such history.* The treatment staff kept asking how could this man pull off such an evaluation with no evidence?

I had custody of the boys during the 3 1/2 year court battle following Jim's exit April 1991 from us with his fiance. The Montana trial was held August 1994 decision made on December 23, 1995. On December 21, 1994, while awaiting the judge's decision, the boys were flown to Alaska for a court ordered visit; December 23, 1994 I learned the boys would not return and a child support check was due in two weeks; \$450+ monthly. Any further visits dependant on prompt payments.

By now, ~~May~~ ^{Sept.} 1995, the hospital board of Seward Alaska unanimously voted to terminate Jim's contract 5 months early (again consistent of employment history). He's filed *bankruptcy*. The family moved to further isolation in Talkeetna. Their second child of present marriage *died* age 6 months of "rare SIDS". I have been denied details of any events. *The boys are now advocates* for their dad and I do not hear from them... except stilted conversations which Jim has threatened to terminate. I continue writing to my boys biweekly. I wrote to the Judicial Standards Committee in MT they reviewed the case; nothing. Court appeals are costly and time consuming and the court reflects bias toward the father.

The entire court proceedings *did not consider* the boys' emotional well being. The *Judge arranged* their first summer stay with Dad prior to the trial. *He condoned* a secrete evaluation of the boys Jim's, by the court appointed psychologist (Dr. Harper) for the father. I learned of this evaluation August 15 despite paying for half of the evaluation. This parent brought the boys to trial following 2 months of "assurance" they had never really been abused, in-home church services led by Dad, (the preacher) and assurance of their return to Alaska after the trial. His present psychiatrists stated parenting skills were "not impaired" at this time with significant medication and therapy. *The judge failed* to look at research concerning child adjustment living under discipline of an abusive parent; their intense desire to believe the abuser, and believe the abuse never really happened. *The judge failed* to look at community support systems and resources where this father would be living. Where would these children turn should Daddy relapse? *The judge refused* to allow N.C. jurisdiction despite the children living there 3 1/2 years prior to the

trial where their adjustment could have been evaluated. The judge failed to respect the boys' need to say good bye to friends and connections they had developed the those years. The judge denied the value of this mother's relationship with her sons in good-byes or communication.

My biggest anguish is I cannot protect my children as their father moves into more isolation, geographically, spiritually, and socially. He encourages feelings of hate and fear toward others. The judge's court decision and method of notification of the decision has taught the boys they had best believe their father.

I encourage hearings to review such atrocities as parents with history of abuse and significant emotional instability gaining primary custody with no conditions. Surely public officials putting their heads together in a bipartisan effort can figure out a humane way to validate both parents' role in the children.

Senate Bill No. 156

Sincerely

Marilyn Meade, C.C.S.W.

122 Lilly Ave.

Salisbury, N.C 28144

9/26/95

Lyda Green
Senator
600 E. Railroad Avenue
Wasilla, Alaska 99654

SEP 27 1995

Dear Senator Green:

I am a custodial parent and I'm writing to you about Bill # 156. Mandatory Mediation.

Several years ago I went through a divorce. From the time I entered *my first attorneys* office until the divorce was finally over took almost *one year*. **Three attorneys and over 22 thousand dollars** later, there is still unresolved issues with my case.

There was a point in the proceedings that I could see that my divorce was going to get ugly. I wanted the **tug-of-war** over the kids to **stop**. I had heard about mediation and asked my ex-husband if he would consider settling our differences through mediation. He was not willing and there was no way of forcing him to enter into this process.

Mediation should be required for parents seeking divorce. It will give any cooperating party the needed tool to settle their differences in a dignified, productive and positive way.

I feel very strongly that Mediation will **improve** the well being of our communities. It will free up our court system and save families thousands of dollars. **The persons who will ultimately benefit the most will be the kids! ...Our Future.**

Thank you for your time!

Sincerely,



Georgia (DePree) Goodrich
P.O.Box 1253
Palmer, Alaska 99645
(907) 745-6641

SUPPORT SENATE BILL 156 MANDATORY MEDIATION

Dear Senator Leman,

Please support Senate Bill 156, as this would be a much better solution compared to the current unlawful court child custody battle. I'm living proof that the court system tears families apart 100% after divorce.

My former spouse and I got along fine for 2 yrs. after our separation. We didn't always agree, but managed to hash it out. When we entered the court system with our hired Attorneys, everything fell apart. Before we knew it, we became each others worst enemies. Our Attorneys had us at each others throats while they collected what "borrowed" funds we had left. His Attorney advised him to quit his job and apply for welfare/AFDC while the children were visiting him.

He was awarded primary custody, because I worked and he is on Welfare and not working allowing him to spend more time with the children. I was left with paying \$744.00 a month in child support to be paid even when the children live with me, paying \$4000.00 of his Attorney fees, \$4000.00 to his parents they claim I borrowed during our marriage (an obvious scam to get me to pay the full amount of his Attorney fees of \$8000.00). I was also ordered to cover their medical insurance and pay for all their sports programs.

He continued to collect Welfare/AFDC in the amount \$1120 cash and \$400.00 in food stamps per month. He bought all kinds of neat toys for himself; a 6 disc CD stereo system, TV, entertainment center, leather coat, \$2000.00 refrigerator, not to mention the diamond ring he just bought his new fiance'.

My child support payments go directly to AFDC to pay back payments sent to him, so my children never see a penny of it. I was forced into a small 2 bedroom home due to my child support chopping my income almost in half. I now have a order to get a bigger home before my children can spend one extra day with me. Why should any parent or child have to go through this?

I am far from being an exempt case. Many parents share my same agony. The courts strip away what dignity we have left, lowering our self esteem, and strip our pocket books.

It's abvious that our whole court system needs to be over hauled, but Mandatory Mediation would be a positive start. Mediation keeps parents on the real issues, and leaves no room for blaming and accusing. The kids can also take part and their feeling are taken seriously, giving them self worth and a feeling of involvment and accomplishment.

After 3 yrs. of fighting I finely convinced my former spouse to enter into Mediation and we have been getting along better ever since. The stress in my life has cut in half and the children are much happier since mom and dad aren't fighting.

Please support Bill 156, Mandatory Mediation for the sake of our children.

I would be interested in your comments.

Sincerely,

Sandy K. Hornal

Sandy K. Hornal

1564 Pioneer Peak Dr. Wasilla

373-2721 Mes.

The Arbitration & Mediation Group

MEDIATORS, ARBITRATORS, FACILITATORS & TRAINERS

POST OFFICE BOX 240783
ANCHORAGE, ALASKA 99524-0783
TELEPHONE: (907) 348-3801
FAX: (907) 348-0008

October 20, 1995

House/Senate HESS Committee
Attn: Ms. Lyda Green
Legislative Affairs Office
Fourth Avenue
Anchorage, AK 99501

SB 156
WRITTEN TESTIMONY
BY FAX

Re: Written testimony:
SB No. 156 - An Act requiring mandatory mediation of child custody disputes...

Gentlemen and women:

We write to offer our testimony concerning SB 156. We are unable to appear in person.

The Arbitration & Mediation Group is a private business, wholly owned by Alaskans, and has been offering dispute resolutions services since 1986. In the past year, TAMG has provided training, facilitation, mediation or arbitration services to nearly 1,000 Alaskans involved in family or employment disputes, from Anchorage to Fairbanks and Seward to Big Lake.

Our two practitioners have a total of nearly 40 years experience in conflict resolution. Kathleen G. Anderson is principally a mediator, holds practitioner status with the Academy of Family Mediators, is a full member of the Society of Professionals in Dispute Resolution, and has more than 200 hours training in mediation, facilitation, and arbitration. James R. Carr is a mediator and arbitrator, impaneled with the American Arbitration Association, the Federal Mediation and Conciliation Service, and is a full member of the Society of Professionals in Dispute Resolution. Both are active in local Alaska groups, including the Alaska Dispute Settlement Association and the Alternative Dispute Resolution Section of the Alaska Bar Association. Both serve on the American Arbitration Association's Advisory Board for Alaska. Kathy sits on the Alaska Supreme Court's Task Force on Mediation.

TAMG commends Senator Green's efforts to engage divorcing parents in mediation, particularly in resolving issues concerning the parenting of their children. Mediation has been shown to be successful in such cases, for a number of reasons. Those reasons are principally the voluntary nature of the process, the confidentiality of the process (which works to allow parents to explore their true interests and needs), and the neutrality of the mediator (which works to insure that the parties engage in a process designed to empower them both).

Post-It® Fax Note 7671

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Senator Green
Legislative Affairs Office
SB 156
October 20, 1995
Page two

However, many of Senate Bill 156's provisions run contrary to the fundamental principles of the mediation process, particularly in the following:

1) Subsections (a) and (c). A court's mandatory order to mediation, in combination with requiring that the mediator report to the court the identity of a party who "refuses to attend mediation sessions or refuses to negotiate in good faith" voids the empowerment aspect of the mediation process. It breaches confidentiality. No other jurisdiction has enacted court annexed mediation as is proposed here. The language is contrary to multiple national standards of practice, standards of conduct, and codes of ethics.

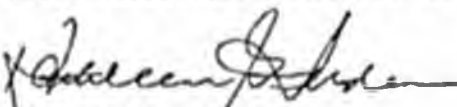
2) Subsection (b). Removing discretionary authority from the court, who may be apprised of more information than is a mediator, is a denial of due process. Mediation is only one of many forums in which conflict may be resolved. It should not be used as the only one

3) Subsection (c). The provision which requires a court to award custody based on a party's "refusal" to mediate or negotiate is punitive and again, contrary to the basic principles of the mediation process. The use of a clear and convincing evidence standard will only pit parents against one another even more deeply, rather than to bring them to points of collaboration.

TAMG has extensive resources which may be of assistance to the Senator, *including* a recently published compilation of current court-annexed mediation programs from all 50 states. This resource includes program components, structure, statistics, etc. Other resources contain specific statutory language. TAMG would welcome the opportunity to work with the Senator on this important legislation. Please do not hesitate to call.

Best regards,

THE ARBITRATION & MEDIATION GROUP

By: 
Kathleen G. Anderson


James R. Carr

SB

159

Alaska State Senate

SENATOR STEVE RIEGER
District I

Senate Finance Committee
Chair, Senate Transportation Committee

Legislative Budget and Audit Committee
Administrative Regulation Review Committee
Legislative Council

RECEIVED
FEB 01 1996

Ans'd.....

During Session:
State Capitol, Room 516
Juneau, Alaska 99501
(907) 465-3879

716 West 4th Avenue, Suite 530
Anchorage, Alaska 99501
(907) 258-8188

MEMORANDUM

February 1, 1996

TO: Senator Lyda Green, Chairman
Senate HESS Committee

FROM: Senator Steve Rieger *SR*
Senate District I

RE: Hearing request for SB 159 "An Act relating to advance directives for mental health treatment."

I respectfully request a hearing for SB 159 which is legislation I introduced last session at the request of the Mental Health Consumers of Alaska. Over the interim, I continued discussions with this group and have attached a proposed amendment which addresses changes they would like to see in the legislation.

Thank you for consideration of this scheduling request.

Enclosure

Alaska State Senate

SENATOR STEVE RIEGER
District 1

Senate Finance Committee
Chair, Senate Transportation Committee

Legislative Budget and Audit Committee
Administrative Regulation Review Committee
Legislative Council

During Session:
State Capitol, Room 516
Juneau, Alaska 99801
(907) 465-3879

716 West 4th Avenue, Suite 530
Anchorage, Alaska 99501
(907) 258-8188

SPONSOR STATEMENT

SB 159 "An Act relating to advance directives for mental health treatment."

Senate Bill 159 allows individuals to make decisions in advance about three types of mental health treatment: psychotropic medication, electroconvulsive therapy, and a short-term admission of up to 17 days into a treatment facility. These decisions are documented in a declaration for mental health treatment and will be used only during any period in which a patient is incapable of consenting to or refusing treatment.

The declaration is set up so that an individual may also appoint a person as an attorney-in-fact to make those treatment decisions for them if they become incapable. The attorney-in-fact would make sure those written instructions are followed or make treatment decisions for the individual if the instructions have not been written down. The attorney-in-fact must accept the appointment in writing and may withdraw from this duty at any time.

The declaration will remain in effect for three years unless the individual becomes incapable of making mental health treatment decisions. If this occurs, the directive continues in effect until the individual is no longer incapable. The individual has the right to revoke all or part of the declaration at any time as long as they have not been determined to be incapable.

This legislation would enable persons to make their own mental health decisions prior to any future mental health crisis they might encounter. The legislation was requested by the Mental Health Consumers of Alaska.

**To Senator Kelly
Reference HES, STA
12th Feb. 1996**

**From Archivides Kalokerinos
RMB 218 ZA Bourne Lane
Tamworth, NSW. 2340
Australia
Phone (067) 608166
Fax (067) 608344**

**Born 28th Sept. 1927. Glen Innes, Australia
Graduated M.B.,B.S. Jan. 1951, University Sydney
Fellow Royal Society of Tropical Medicine, London**

Retired from full-time practice.

Consultant to various organisations in Australia and overseas and Australian Aboriginal communities.

Special interests - Aboriginal infant and adult health, Vitamin and mineral supplements, nutrition, and problems associated with routine vaccine administrations.

In 1957 I commenced work as the sole medical practitioner in the remote township of Collarenebri, 500 miles north-west of Sydney. There were about 500 Caucasians in the town, 200 Aborigines on the nearby reserve and about 500 Caucasians in the surrounding district.

Before my time in Collarenebri and for the first ten years of my period there an extraordinarily high infant mortality rate, amongst Caucasians and Aborigines, was apparent. During one 24 hour period three Caucasian babies died.

The infant deaths were strange. Some infants who were apparently well or suffering from a trivial illness, were found dead in their cots - typical sudden, unexpected, infant deaths. Other infants who were apparently well, or suffering from trivial complaints, went into unexplained shock from which they could not be resuscitated. Others became excessively irritable, then unconscious and died. In all cases autopsies failed to offer satisfactory explanations for death. In some cases autopsies revealed yellow patches in the liver and it was observed, before death, that these cases displayed varying degrees of liver pain and tenderness.

All other doctors in Australia, including academic staff and State and Commonwealth Departments of Health, denied that infant death rates were high in other areas and denied the existence of the clinical patterns observed by myself. Years later I learned that the problems were widespread across Australia and, indeed, worse in many areas.

In other words, I was deliberately misinformed by some and others appeared incapable of recognising what was going on before their eyes. Sometimes, for reasons not fully understood, epidemics of one of the disease patterns occurs - for example, *The Dark Disease Of Naples, (Italy)* during the late 1970's where infants and children became suddenly unconscious, for no known reason, and died. Two thirds of these cases had upper respiratory infections, the other third had recently received routine vaccinations.

Eventually I found that intramuscular or intravenous Vitamin C, if administered early, reversed the shock state and the unconscious state. I was fortunate because I was always able to commence treatment early.

The first injection of Vitamin C was given in December 1967. From that time on, until I left the area in November 1975, there were no more infant deaths under my care. I was also able to drop the infant mortality rates in neighbouring districts. Other doctors who followed my methods achieved similar results.

However, I did observe that routine immunisations had a dreadful effect on some infants for a period of some weeks following the administration. A few suffered from an apparent immune paralysis and contracted serious bacterial infections. Others went into the strange state of shock or became excessively irritable, then unconscious. Both states could be reversed by intravenous Vitamin C. Bacterial infections were difficult to control.

Because of this routine immunisations were sometimes delayed. The percusses component was sometimes omitted and sick infants received injections of vitamin C.

It is important to note that most standard methods of medical treatment were always employed, before and after the realisation of the importance of Vitamin C and the harm sometimes done by routine vaccinations. What made the difference to mortality rates (and the figures could hardly be more dramatic) was the uses of Vitamin C and care with routine vaccinations.

I should also inform you that in the state of NSW records of vaccinations, including batch numbers, are kept and copies given to all parents.

AMENDMENT

OFFERED IN THE SENATE

TO: SB 159

1 Page 4, line 20:

2 Delete "AS 47.30.825"

3 Insert "AS 47.30.825 - 47.30.865"

4 Page 5, line 10:

5 Delete "or by"

6 Insert ", "

7 After "two physicians":

8 Insert "that include a psychiatrist, or one physician and a professional mental health
9 clinician"

10 Page 7, after line 28:

11 Insert "

12 _____
(Address)

13

14 _____
(Telephone Number) "

15 Page 8, line 27:

16 Delete "or"

17 Insert ", "

18 After "physicians":

19 Insert "that include a psychiatrist, or one physician and a professional mental health
20 clinician"

21 Page 11, line 9, after "days":

1 Insert ";

2 (6) "professional mental health clinician" means a person having at
3 least a master's degree in psychology, social work, counseling, child guidance, or
4 nursing with specialization or experience in mental health; if employed by a mental
5 health physician clinic, a "professional mental health clinician" must also be licensed
6 to practice in the state in which service is being provided or be a clinical member in
7 good standing of the American Association for Marriage and Family Therapy, and be
8 working in the clinician's field of expertise; in this paragraph, "mental health
9 physician clinic" means a clinic, operated by one or more psychiatrists, that
10 exclusively or primarily provides mental health services furnished by a psychiatrist
11 or by one or more licensed psychologists, licensed psychological associates, licensed
12 clinical social workers, licensed nurse practitioners, licensed psychiatric nursing
13 clinical specialists, or clinical members in good standing of the American Association
14 for Marriage and Family Therapy, who are working in their field of expertise under
15 the direct supervision of a psychiatrist"

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 159

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to advance directives BRU: MI/DD Services
for Mental Health Treatment Component: Alaska Psychiatric Institute
 Sponsor: Rieger COMPONENT SERIAL NO. 311
 Requestor: Senate HES See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$0.0

POSITIONS:

FULL-TIME	N/A					
PART-TIME	N/A					
TEMPORARY	N/A					

ANALYSIS:

(Attach a separate page if necessary)

This bill will not have a fiscal impact on the Division.

Prepared by: Leonard Abel, Ph.D.
 Division: DMH&DD
 Approved by Com: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3370
 Date: 01/24/96
 Date: 1/24/96

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