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COMMITTEE REPORT

9/14

HOUSE

JUDICIARY

(7)

FURTHER: FINANCE

3/15/85

Date: 4-14-86

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 293

"An Act relating to municipal default on bonded indebtedness; establishing the Municipal Financial Emergency Commission; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 293 (CRA) same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

F. Kestel

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

W. Furness None

A.V. M. Mason Do Not Pass

UNCONSTITUTIONAL, UNNECESSARY
AND UNWORKABLE

[Signature]

CHAIRMAN

Offered: 4/14/86
Referred: Judiciary and
Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 293 (C&RA)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - SECOND SESSION
6 A BILL
7 For an Act entitled: "An Act relating to municipal default on bonded in-
8 debtedness; establishing the Municipal Financial
9 Emergency Commission; and providing for an effective
10 date."
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
12 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that
13 (1) while the power of municipalities to contract debt for capital
14 improvements is granted by the Alaska Constitution, revenue that may be
15 raised to repay the debt are limited by the extent to which the state has
16 delegated taxing authority to the municipalities under art. X, sec. 2 of
17 the Alaska Constitution;
18 (2) the state has a strong interest in debt issuance by municipali-
19 ties because of the impact on state revenue as a result of municipal as-
20 sessment to repay debt and because of the effect on the marketability of
21 bonds issued by the state and its agencies, by public corporations of the
22 state, by other municipalities, and by the Alaska Municipal Bond Bank Au-
23 thority;
24 (3) bonds issued by municipalities are not legal obligations of the
25 state, nor are the bonds supported by the moral obligation of the state;
26 and
27 (4) it is in the public interest, and is declared to be a public
28 purpose, to promote the prosperity and general welfare of all the people of
the state by assisting in the development and implementation of refinancing

1 plans for municipalities that have defaulted on outstanding debt.

2 * Sec. 2. AS 29.10.200 is amended by adding a new paragraph to read:

3 (47) AS 29.47.500 - 29.47.590 (default on bonded indebted-
4 ness)

5 * Sec. 3. AS 29.47 is amended by adding new sections to read:

6 ARTICLE 7. DEFAULT ON BONDED INDEBTEDNESS.

7 Sec. 29.47.500. MUNICIPAL FINANCIAL EMERGENCY COMMISSION. (a)
8 The Municipal Financial Emergency Commission is established in the
9 Department of Community and Regional Affairs.

10 (b) The members of the commission consist of the commissioner of
11 community and regional affairs, the commissioner of revenue, and the
12 commissioner of administration. Members of the commission may appoint
13 designees to serve on the commission.

14 (c) The commissioner of community and regional affairs shall
15 chair the commission. A quorum of the commission consists of two
16 members.

17 (d) The commission may employ staff as is necessary to accom-
18 plish the purposes of the commission.

19 Sec. 29.47.510. DUTIES AND POWERS OF THE COMMISSION. (a) Upon
20 receipt of a written notice of a default by a municipality, as provid-
21 ed in AS 29.47.520, and after consulting with the state bond committee
22 the commission may

23 (1) investigate the defaulting municipality's fiscal af-
24 fairs, consult with the governing bodies of the defaulting munici-
25 pality, and negotiate with creditors in order to assist the municipal-
26 ity in developing a plan for satisfaction of the outstanding debt;

27 (2) direct a state agency holding money on behalf of or
28 payable to the defaulting municipality to pay the money either to the
29 commission for payment to creditors, or to the defaulting municipality

1 respect to a defaulting municipality, until the commission is sat-
2 isfied that the defaulting municipality has performed or will perform
3 the duties required of it in the plan, and until agreements made with
4 the defaulting municipality's creditors have been performed in
5 accordance with the plan.

6 (c) The commission may take all actions necessary to accomplish
7 the purposes of AS 29.47.500 - 29.47.590, including issuing subpoenas
8 necessary for the production of documents and issuing orders. A
9 superior court may, upon application of the commission, compel obedi-
10 ence with a subpoena or order issued by the commission.

11 Sec. 29.47.520. NOTICE OF DEFAULT. (a) A municipality shall
12 give notice of default to the commissioner of community and regional
13 affairs within 10 calendar days after actual knowledge of the default.

14 (b) A creditor may give notice to the commissioner of community
15 and regional affairs any time after a default by a municipality.

16 (c) A municipality may request the assistance of the commission
17 at any time before default if, in the judgment of the municipality,
18 assistance from the commission will assist the municipality in reliev-
19 ing financial distress.

20 Sec. 29.47.530. ACTION UPON RECEIVING NOTICE OF DEFAULT. The
21 commissioner of community and regional affairs shall convene a meeting
22 of the commission within 15 days after the receipt of a notice of de-
23 fault, or of a request for assistance, under AS 29.47.520. The de-
24 faulting municipality shall be given notice of the meeting, and shall
25 send an authorized representative to the meeting to represent the
26 defaulting municipality during the development of a plan under AS 29.-
27 47.510.

28 Sec. 29.47.540. LIMITATION ON ACTIONS. If a notice of default
29 or request for assistance has been provided by a municipality under

- 1 for disposition as required under an adopted plan;
- 2 (3) determine whether a proposed plan is fair and equitable
3 and within the ability of the defaulting municipality to meet, and, if
4 so, enter an order finding that it is fair, equitable, and within the
5 ability of the municipality to meet;
- 6 (4) advise the defaulting municipality to take the neces-
7 sary steps to implement the plan;
- 8 (5) order the defaulting municipality to take the necessary
9 steps to implement the plan if the municipality fails to implement the
10 plan within 30 days after receiving the advice of the commission to
11 implement the plan;
- 12 (6) require periodic reports on the defaulting municipali-
13 ty's financial affairs during the period in which the plan is imple-
14 mented;
- 15 (7) approve or reject the defaulting municipality's annual
16 budget ordinance during the period in which the plan is implemented;
- 17 (8) approve or reject the issuance of additional bonds,
18 notes, or other debt, whether short- or long-term, during the period
19 in which the plan is implemented;
- 20 (9) impound the books and records of a defaulting municipi-
21 pality and assume full control of its financial affairs, including the
22 levying of taxes, expenditure of money, and adoption of budgets, if
23 the municipality fails to implement a plan, or if, in the opinion of
24 the commission, the defaulting municipality will default on a future
25 debt service payment under the plan if the financial policies and
26 practices of the municipality are not improved; and
- 27 (10) order a defaulting municipality to pay for the cost of
28 developing and implementing a plan.
- 29 (b) The authority granted to the commission continues, with

1 AS 29.47.520, a creditor of the municipality may not file an action
2 based upon the outstanding debt until 90 days after the first meeting
3 of the commission convened under AS 29.47.530 to consider the matter.

4 Sec. 29.47.550. PENALTY. A municipal official, employee, or
5 agent who intentionally violates a provision of a plan developed under
6 AS 29.47.510 is subject to a civil penalty not to exceed \$5,000.

7 Sec. 29.47.560. BANKRUPTCY PETITION. Nothing in AS 29.47.500 -
8 29.47.590 limits or otherwise affects the authority of a municipality
9 to file a petition in bankruptcy under 11 U.S.C. 901 - 946.

10 Sec. 29.47.565. NO STATE OBLIGATION FOR MUNICIPAL DEBTS. (a)
11 Bonds issued by municipalities are neither legal obligations nor moral
12 obligations of the state.

13 (b) Nothing in AS 29.47.500 - 29.47.590 may be construed to
14 create liability on the part of the state for outstanding debts of a
15 municipality. An action taken by the commission may not be construed
16 as an assumption of liability or responsibility by the state for
17 outstanding debts of a municipality.

18 Sec. 29.47.570. APPLICATION. AS 29.47.500 - 29.47.590 applies
19 to home rule and general law municipalities.

20 Sec. 29.47.590. DEFINITIONS. In AS 29.47.500 - 29.47.590

21 (1) "commission" means the Municipal Financial Emergency
22 Commission;

23 (2) "creditor" means a person who has standing to bring an
24 action for default on outstanding debt against the defaulting municipi-
25 pality;

26 (3) "default" means the failure by a municipality to pay an
27 installment of principal or interest on its outstanding debt, on or
28 before the due date;

29 (4) "defaulting municipality" means a municipality that has

1 defaulted, or that continues to be subject to the jurisdiction of the
2 commission after the implementation of a plan under AS 29.47.510;

3 (5) "outstanding debt" means revenue anticipation notes,
4 bond anticipation notes, general obligation bonds, revenue bonds, or
5 refunding bonds issued under this chapter.

6 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).

April 3, 1986

Honorable Peter Goll, Chairman
House C&RA Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: HB 293, Municipal Financial
Emergency Commission; scope of
or its legal effect
Our file: 663-86-0405

Dear Representative Goll:

At the March 21, 1986 meeting of the Community & Regional Affairs Committee, several members of the committee raised questions concerning the uncertain scope or legal effect of proposed sec. 29.58.440 in HB 293. I discussed legal aspects of these concerns in my letter to you of March 21, 1986.

Following the committee hearing, Commissioner Nordale and I have discussed alternative approaches to assure, to the extent practicable, that creditors do not initiate state legal proceedings which would compromise the ability of the Municipal Financial Emergency Commission to identify responsible management plans. The intent, of course, is to afford the commission a fair opportunity to devise "work out" arrangements before other, typically more onerous solutions are imposed by judicial order.

With this objective in mind, Commissioner Nordale asked that I draft language to amend proposed sec. 29.58.440 to restrict a creditor's access to court. The following language is suggested in preliminary form as a proposed alternative:

Sec. 29.58.440. LIMITATION ON ACTIONS. If a notice of default or a request for assistance has been provided under AS 29.58.420, a creditor of a municipality may not file an action in superior court until 90 days after the first meeting of the commission convened under AS 29.58.430.

Stated as a limitation on a creditor's ability to seek judicial relief, the committee's difficult questions regarding any possible impact on Civil Rule 62 are avoided.

Please feel free to contact me if you have any questions.

Sincerely yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By: Jonathan B. Rubini
Assistant Attorney General

JBR/pjg
cc: Hon. Mary Nordale, Commissioner
Department of Revenue

Arthur Peterson, Esq.
Department of Law

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITAL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 21, 1986

SUBJECT: Change of Court Rule
(HB 293)

TO: Representative Peter Goll, Chair
House Community and Regional Affairs
Committee

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

You have asked whether HB 293 changes Civil Rule 62 and, thus, requires a notation in the title and passage by two-thirds vote. In my opinion it does, and, therefore, triggers those two requirements.

Changing a court rule is the only legislative procedure which has essentially been prescribed by our Supreme Court. In Leege v. Martin, 379 P.2d 447 (Alaska 1963), the Court held:

"Judicial power to make rules of practice and procedure is not absolute. The legislature may change rules initiated by the judiciary when the desirability of making a change is evident, such as in a case where a particular rule of procedure may involve considerations of public policy that are better left to the legislature to pass upon. But this power of legislative review is not without restrictions. The constitutional convention was careful to provide that court rules could not be changed as simply as other laws could be enacted. A two-thirds vote of the members elected to each house, rather than a simple majority, is required in order to change rules of practice and procedure.

"The object of such a limitation is to prevent unintentional, rash, ill-considered and too easy intervention by the legislature which would ultimately frustrate the

sound purpose in giving courts the primary authority and responsibility for regulating their own affairs. But that object cannot be achieved unless the attention of the legislature is directed to the fact that it is employing, not just its general power of enacting laws, but its particular power of reviewing the exercise of an authority vested in the judicial branch of government. During every session since statehood the legislature has passed laws containing some procedure. Efforts are being made to more effectively screen all bills to eliminate procedure, but the danger that bills containing some procedure will escape notice and be enacted will always be present. Unless the specific intent of the legislature to change procedure is expressed in the bill itself, the courts, as a matter of practical necessity, will have to regard procedural changes as unintentional. While the procedure that may be contained in a given bill was included with the best of intentions and without realizing its possible effect on established court operations, it often is so basic as to require wholesale revision of as many as six sets of court rules. The only answer is cooperation between the legislative and judicial branches. Notification in the bill itself that the intent to change procedure seems to be a partial answer. Another partial answer is to advise the Supreme Court when such a bill is being considered and give it an opportunity to be heard so that the legislature will be advised on all ramifications of the proposed change.

"As a matter of reason and necessity and in order to give article IV, section 15 of the constitution a practical working interpretation, we must hold that a legislative enactment will not be effective to change court rules of practice and procedure unless the bill specifically states that its purpose is to effect such a change. Since chapter 112 does not contain such a statement of purpose, that portion of the statute which purports to forbid the granting of stays pending appeal is ineffective and does not change rules of practice and procedure made and promulgated by this court."
(Emphasis added)

The legislature has prescribed in its Rules that a change in Court Rules must be noted in the title, must contain a section expressly citing the Court Rule and must note the change proposed. This satisfies the notice requirement in

Representative Peter Goll

Page 3

March 21, 1986

Leege. However, the legislature has the power to make substantive law which involves court procedure without changing the rules.

TBC:mkr

m4/036

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 21, 1986

SUBJECT: Municipal default on bonded indebtedness
HB 293

TO: Representative Peter Goll, Chair
Community and Regional Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

You have asked whether HB 293, establishing a Municipal Financial Emergency Commission is consistent with constitutional revisions relating to local government. The commission established under the bill has considerable power over municipalities defaulting on municipal bonded indebtedness. Under AS 29.48.410(a) the commission can, among other things, order a municipality to comply with a plan for satisfaction of the debts, approve or reject the municipality's budget, approve or reject issuance of bonds or acquisition of other debt, impound the books or records of the municipality and assume full control over its financial affairs, including the levying of taxes and expenditure of money.

Under Article X, Section 2 all local government powers are vested in boroughs and cities. Sections 3 and 7 provide for the establishment of boroughs and cities. The role of the legislature in providing for services in the unorganized borough is dealt with under Section 6, and the legislature is not specifically assigned a similar role with respect to the provision of local services in boroughs and cities. Under HB 293 the state can essentially take over and run a municipality by exercising total control over its finances. The question as to whether this amounts to a violation of the various constitutional provisions relating to local government has not been considered by the court and until it is considered, it cannot be determined with certainty that such a scheme would be found to be constitutional. The very best that can be said is that the legislation proposed under HB 293 would be subject to challenge.

Representative Peter Goll
Page 2
March 21, 1986

You have also asked whether the state, in adopting the active role set out under HB 293, might, thereby incur liability for municipal bonded indebtedness. Under Section 1.(3) of the bill the legislature finds "bonds issued by municipalities are not legal obligations of the state, nor are the bonds supported by the moral obligation of the state. . ." Nevertheless, because the state will have the power under this bill to completely control the finances of a defaulting municipality, I think that it is possible that a court would find that the state under this legislation has taken over the responsibility for protecting borrowers and, therefore, has assumed a measure of liability to them. It also seems to me possible that any uncertainty over this question could have an affect on the state's own bonding ability. Because of the importance of the issue and the specialized legal and practical implications inherent in legislation affecting bonding, I recommend that the bill be submitted to bond counsel for analysis of potential impacts on both the state and municipalities.

Lastly, I note that provisions of HB 293 requiring certain actions of municipalities, including the reporting of default situations and compliance with plans for satisfaction of the debts, do not, under AS 29.13.100, apply to home rule municipalities.

TBC:mkr
m4/034

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : 3/12/86

original

REQUEST

Bill/Resolution No. : HB 293
 Title : An Act relating to municipal default on bonded indebtedness; and providing for an effective date
 Sponsor : Rules Committee by Governor
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Community & Regional Affairs
 BRU : Local Government Assistance
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by : Doug Griffin, Deputy Director
 Division : Municipal & Regional Assistance

Phone : 465-4750
 Date : 3/12/86

Approved by Commissioner : _____
 Agency : Community & Regional Affairs

Date : 3/12/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1985 - 14TH LEGISLATURE
SECOND SESSION
FISCAL NOTE

Bill/Resolution No.: HB 293

Title: An Act relating to municipal default on bonded indebtedness; and providing for an effective date

ANALYSIS:

Assumptions:

Based on the latest information available, it does not appear as though any municipality is in danger of default on bonded indebtedness. Adoption of the Governor's debt management package would provide further assurance that the Municipal Financial Emergency Commission and any staff it may need to employ would not be needed. This zero fiscal note is based on these conditions and assumptions.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 12, 1986

original

SUBJECT: Municipal bonded indebtedness
(HB 293)

TO: Representative Peter Goll, Chair
Community and Regional Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

You have asked whether the sections in HB 293 need to be renumbered in view of the fact that all of Title 29 was revised and renumbered effective January 1, 1986. The bill currently adds new sections to AS 29.58. Since that chapter was repealed and provisions dealing with municipal debt placed in AS 29.47, the bill sections should be renumbered to fit into that chapter. Please let me know if you would like a committee substitute accomplishing this.

TBC:mkr
m3/156

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 3/12/86

REQUEST

Bill/Resolution No. : HB 293
 Title : An Act relating to municipal default on bonded indebtedness; and providing for an effective date
 Sponsor : Rules Committee by Governor
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Community & Regional Affairs
 BRU : Local Government Assistance

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by : Doug Griffin, Deputy Director *Griffin*
 Division : Municipal & Regional Assistance

Phone : 465-4750
 Date : 3/12/86

Approved by Commissioner : *J. M. Smith*
 Agency : Community & Regional Affairs

Date : 3/12/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1985 - 14TH LEGISLATURE
SECOND SESSION
FISCAL NOTE

Bill/Resolution No.: HB 293

Title: An Act relating to municipal default on bonded indebtedness; and providing for an effective date

ANALYSIS:

Assumptions:

Based on the latest information available, it does not appear as though any municipality is in danger of default on bonded indebtedness. Adoption of the Governor's debt management package would provide further assurance that the Municipal Financial Emergency Commission and any staff it may need to employ would not be needed. This zero fiscal note is based on these conditions and assumptions.

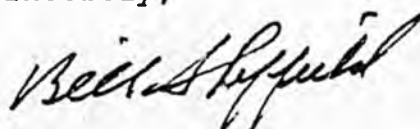
promptly convene and assess the municipality's financial affairs.

Under proposed AS 29.58.410, the commission enjoys extraordinarily broad powers to assure, to the extent possible, the resolution of the financial crisis. The fundamental objective of the commission is to adopt a plan that satisfies debt service obligations in a manner acceptable to municipal creditors. The commission enjoys the power to issue subpoenas and orders as are necessary to undertake this task.

I certainly anticipate that a municipality will act to implement the plan adopted by the commission. However, the bill provides that, in the unlikely event that a municipality fails to implement the plan, or if the commission determines that the municipality remains in financial disarray, the commission may assume full control of the defaulting municipality's financial affairs. This extraordinary intrusion upon local governmental prerogatives can only be exercised in narrowly prescribed instances and, as do all of the commission's powers, the authority of the commission expires upon the successful satisfaction of the default. While certain of these broad powers may approach the legal limit of the state's authority to impair local government powers, I believe that the overwhelming public concern for the financial stability of all Alaskan communities offers a compelling justification for this possible intrusion.

I again emphasize that this bill does not foretell any municipal default. In the area of municipal finance, however, it is not sufficient to act only in response to events. Instead, it is far preferable to establish a mechanism before any default, so that if a municipality does default on a debt service obligation, the repercussions to the state and to other municipalities are limited to the extent possible. With due respect for the prerogatives of local governments, I believe that this bill provides a needed mechanism for state involvement. I urge your prompt consideration and passage of this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

Cape May County, New Jersey

\$19 million general improvement bonds due 1987-1996
Competitive, March 5
Rated 'A--'

Rationale: S&P affirms Cape May County, N.J.'s 'A--' rating on outstanding general obligation general improvement bonds and assigns an 'A--' rating to the current \$19 million offering. The rating reflects strong financial performance and rapid bond retirement, coupled with the tourist-based economy and below-average wealth and income levels. Because of the developments in the casino industry in nearby Atlantic City, building permit activity is very strong. The casino industry also benefits from the county's commercial fishing industry because of increased tourism and year-round populations.

Economy: Cape May County forms the southernmost tip of New Jersey. The county is a peninsula, 454 square miles in total area, and has had steady population growth since the 1960s. The county's major industry is tourism, with the summer tourist industry the strongest economic factor for over 50 years. Population in the summer months increases to 593,856 from 95,724. Unemployment rates are seasonal in nature; during the summer of 1985, unemployment dropped to a low of 6% and reached 15% during the winter. Recent developments in the casino industry in nearby Atlantic City have significantly impacted the county's economy. Building permit activity has been very strong over the past few years with the construction of new hotels and motels, townhouses, and condominiums. The commercial fishing industry continues to be influenced favorably by Atlantic City as the larger tourist and permanent populations create greater seafood consumption.

Debt: Proceeds from this issue will be used for various municipal buildings, road, bridge, and storm sewer construction. With this issue, the county will have outstanding net debt of \$29.8 million. Per capita debt is high at \$1,007, but low as a percent of true value at 3.9%. Bond retirement is rapid, retiring 87% of the debt in 10 years. The S&P index, measure of per capita debt to per capita effective buying income, is moderate at 9.1%. The county's capital improvement program for the next five years amounts to approximately \$16.2 million, with 68% expected to be funded from bond proceeds.

Finances: Financial operations are sound. Revenues are derived primarily from property taxes, which account for approximately 70% of current fund revenues. The largest expenditures item is health and welfare, accounting for 24% of operating expenses. Debt service expense will increase with this sale to approximately 10% of budget. Unaudited results for year ended Dec. 31, 1985 show an ending fund balance net of deferred charges of \$6.1 million, or 14% of current fund revenues, a slight decrease from year-end 1984's \$6.4 million fund balance. The budget outlook for fiscal 1986 is expected to continue on a favorable basis, with revenues projected to be in line with budget expectations.

Dominick J. Truglio
(212) 208-1769

Alaska

Reviewed: rating affirmed

Rationale: S&P affirms Alaska's 'AA--' rating on all outstanding general obligation bonds. With the continued "softening" of the world oil market, a new approach to revenue forecasting known as the "30th percentile" has been implemented. The 30th percentile method means that, in the estimation of the state financial forecasters, there is a 70% chance that revenues will actually be greater than the amounts forecasted, and only a 30% chance that they will be less. Current projections reflect an average annual decline in petroleum revenues of approximately 10% for 1988-1988. Indications are that at current levels the projected decline will not adversely affect state revenues in the short run. However, in the long run, an absence of sustained exploratory activity, smaller discoveries, enhanced recovery, and production of heavy oil, at least at current levels, can adversely affect state revenues. Financially, the state continues to perform in a manner commensurate with its rating, as evidenced by a good cash and fund balance position, and a strong permanent fund. The fishing and timber industries, important contributors to the Alaskan economy, are still somewhat depressed, but continue to show signs of gains. Debt remains manageable and is declining as the state continues to meet some of its capital needs through pay-as-you-go financing. Overall, the state's economy continued to show growth in population, employment and personal income, and maturation in the trade and services sectors.

Economy: The state's economic base is primarily extractive, with major dependence upon oil and gas production, and to a somewhat lesser extent, the supportive industries of fishing, timber, minerals, and tourism. Approximately 86% of state revenues are derived from royalties and taxes paid on state-owned oil and gas leases. Indications are that the production level of several Cook Inlet fields is declining and production from the

Prudhoe Bay field will substantially decline in the 1990s. As of Jan. 1, 1986, the Alaska Oil and Gas Conservation Commission estimated the state's remaining recoverable reserves to be 7.995 billion barrels of oil and 34.23 trillion cubic feet of gas. Approximately one-third of Prudhoe Bay's estimated 9.6 billion barrels had been produced by year-end 1984. Some encouragement may be gained from the fact that there have been varied successes in oil and gas exploration in North Slope, totaling an estimated 2.5 billion barrels of recoverable oil. This new exploration bolstered a relatively strong employment picture. Arco Alaska and Standard Oil Co. of Ohio, two major petroleum operators, are cutting their construction budgets by 43% and 17%, respectively. The combined exploration spending still represents a large sum for 1986 at \$1.25 billion. State revenue forecasters believe that in the short run, the current decline in world oil prices will be offset at the wellhead by the reduction in the Trans Alaska Pipeline System tariffs, by approximately \$1.20 per barrel. A partial settlement was reached in a long outstanding tariff litigation between the state and pipeline owners. The state will receive a total of \$285 million, including refunds from 1982-1985, as a result of this settlement. However, the settlement will have an adverse effect on local communities who depend on the pipeline for a portion of their property taxes. North Slope Borough will lose approximately \$2.0 million annually, while Valdez and Fairbanks North Star will lose approximately \$1.8 million and \$500,000 annually, respectively. In fiscal 1986, the state will receive an added \$227 million from this settlement.

The fishing and timber industries continue to be important contributors to the state's economy. Total revenues to fishermen from fish catch sold in Alaska for fiscal 1985 was \$700 million, compared to \$602.3 million in 1984. Since 1977, salmon catches have been improving, however, the shell fish industry, which includes king crab and shrimp, the major revenue contrib-

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 293

March 15, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to establish a Municipal Financial Emergency Commission that will provide assistance to municipalities that are in default on bonded indebtedness.

Recent controversy surrounding the financial practices of the North Slope Borough has led to a greater sensitivity to the consequences of local financial disorder. While there is absolutely no indication that the present problems of the North Slope Borough will have any effect on the borough's ability to satisfy all debt service obligations, the controversy has led to concern that current law does not provide a role for the state in the event of a municipal default. It bears noting that a municipal default will inevitably affect the state and other municipalities as well. While each municipality's general obligation debt is of course a direct financial burden of only the issuing municipality, the practical fact is that all governmental entities in the state share, to one degree or another, in the consequences of a municipal default. While I reiterate that there is no present prospect of municipal default, it is imperative to establish a procedure to deal with that event before a financial crisis occurs -- not in response to one.

The bill proposes the establishment of the Municipal Financial Emergency Commission which consists of the commissioners of the Departments of Community and Regional Affairs, Revenue, and Administration. Under proposed AS 29.58.420, a municipality must provide notice of a default to the commission, or the municipality may request the assistance of the commission in anticipation of financial distress. Once the commission receives notice of a municipality in financial disarray, the commission must

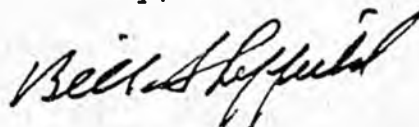
promptly convene and assess the municipality's financial affairs.

Under proposed AS 29.58.410, the commission enjoys extraordinarily broad powers to assure, to the extent possible, the resolution of the financial crisis. The fundamental objective of the commission is to adopt a plan that satisfies debt service obligations in a manner acceptable to municipal creditors. The commission enjoys the power to issue subpoenas and orders as are necessary to undertake this task.

I certainly anticipate that a municipality will act to implement the plan adopted by the commission. However, the bill provides that, in the unlikely event that a municipality fails to implement the plan, or if the commission determines that the municipality remains in financial disarray, the commission may assume full control of the defaulting municipality's financial affairs. This extraordinary intrusion upon local governmental prerogatives can only be exercised in narrowly prescribed instances and, as do all of the commission's powers, the authority of the commission expires upon the successful satisfaction of the default. While certain of these broad powers may approach the legal limit of the state's authority to impair local government powers, I believe that the overwhelming public concern for the financial stability of all Alaskan communities offers a compelling justification for this possible intrusion.

I again emphasize that this bill does not foretell any municipal default. In the area of municipal finance, however, it is not sufficient to act only in response to events. Instead, it is far preferable to establish a mechanism before any default, so that if a municipality does default on a debt service obligation, the repercussions to the state and to other municipalities are limited to the extent possible. With due respect for the prerogatives of local governments, I believe that this bill provides a needed mechanism for state involvement. I urge your prompt consideration and passage of this bill.

Sincerely,



Bill Sheffield
Governor

Cape May County, New Jersey

\$19 million general improvement bonds due 1987-1996
Competitive, March 5
Rated 'A-'

Rationale: S&P affirms Cape May County, N.J.'s 'A-' rating on outstanding general obligation general improvement bonds and assigns an 'A-' rating to the current \$19 million offering. The rating reflects strong financial performance and rapid bond retirement, coupled with the tourist-based economy and below-average wealth and income levels. Because of the developments in the casino industry in nearby Atlantic City, building permit activity is very strong. The casino industry also benefits from the county's commercial fishing industry because of increased tourism and year-round populations.

Economy: Cape May County forms the southernmost tip of New Jersey. The county is a peninsula, 454 square miles in total area, and has had steady population growth since the 1960s. The county's major industry is tourism, with the summer tourist industry the strongest economic factor for over 50 years. Population in the summer months increases to 593,856 from 95,724. Unemployment rates are seasonal in nature; during the summer of 1985, unemployment dropped to a low of 6% and reached 15% during the winter. Recent developments in the casino industry in nearby Atlantic City have significantly impacted the county's economy. Building permit activity has been very strong over the past few years with the construction of new hotels and motels, townhouses, and condominiums. The commercial fishing industry continues to be influenced favorably by Atlantic City as the larger tourist and permanent populations create greater seafood consumption.

Debt: Proceeds from this issue will be used for various municipal buildings, road, bridge, and storm sewer construction. With this issue, the county will have outstanding net debt of \$29.8 million. Per capita debt is high at \$1,007, but low as a percent of true value at 3.9%. Bond retirement is rapid, retiring 87% of the debt in 10 years. The S&P index, measure of per capita debt to per capita effective buying income, is moderate at 9.1%. The county's capital improvement program for the next five years amounts to approximately \$16.2 million, with 68% expected to be funded from bond proceeds.

Finance: Financial operations are sound. Revenues are derived primarily from property taxes, which account for approximately 70% of current fund revenues. The largest expenditure item is health and welfare, accounting for 24% of operating expenses. Debt service expense will increase with this sale to approximately 10% of budget. Unaudited results for year ended Dec. 31, 1985 show an ending fund balance net of deferred charges of \$6.1 million, or 14% of current fund revenues, a slight decrease from year-end 1984's \$6.4 million fund balance. The budget outlook for fiscal 1986 is expected to continue on a favorable basis, with revenues projected to be in line with budget expectations.

Dominick J. Truglio
(212) 208-1769

Alaska

Reviewed: rating affirmed

Rationale: S&P affirms Alaska's 'AA-' rating on all outstanding general obligation bonds. With the continued "softening" of the world oil market, a new approach to revenue forecasting known as the "30th percentile" has been implemented. The 30th percentile method means that, in the estimation of the state financial forecasters, there is a 70% chance that revenues will actually be greater than the amounts forecasted, and only a 30% chance that they will be less. Current projections reflect an average annual decline in petroleum revenues of approximately 10% for 1988-1988. Indications are that at current levels the projected decline will not adversely affect state revenues in the short run. However, in the long run, an absence of sustained exploratory activity, smaller discoveries, enhanced recovery, and production of heavy oil, at least at current levels, can adversely affect state revenues. Financially, the state continues to perform in a manner commensurate with its rating, as evidenced by a good cash and fund balance position, and a strong permanent fund. The fishing and timber industries, important contributors to the Alaskan economy, are still somewhat depressed, but continue to show signs of gains. Debt remains manageable and is declining as the state continues to meet some of its capital needs through pay-as-you-go financing. Overall, the state's economy continued to show growth in population, employment and personal income, and maturation in the trade and services sectors.

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utors, remains somewhat depressed. However, it is anticipated that harvest will continue to improve, and the future of the industry enhanced by the priority given to U.S. fisheries over foreign fleets to harvest within the 200-mile fisheries conservation zone. Alaska forests are expected to remain a major source of timber, despite restrictions imposed by the Alaska National Interest Lands Conservation Act of 1978. As part of the settlement act passed by Congress, the industry has been guaranteed 450 million board feet per year, a quantity capable of sustaining traditional harvest levels. The industry has been declining since 1950, as export of forest products have declined at an average annual rate of 10% due to competition and a strong U.S. dollar. In 1984, forest product exports totaled \$219 million, or 21% of all Alaska exports.

Anticipated depletion of oil reserves in the future resulted in attention to minerals and mineral deposits. Shipments of coal to Korea from the Usibelli Mine, which began in 1984 and now total \$60,000 tons yearly, may be increased to 800,000 tons in 1986. Development of a world-class molybdenum mine by U.S. Borax & Chemical Co. is continuing with expectations of 900 new jobs on completion. Also under development are the Red Dog and Greens Creek zinc and lead mines. The Red Dog deposit is estimated at 28% of U.S. deposits and is the second largest zinc deposit in the world. Tourism continues to contribute significantly to the economy. Its importance is underlined by the size of the marketing budget of \$8.1 million in 1985, and a projected \$7.2 million in 1986. In 1984, 700,000 visitors spent a total of \$620 million. Approximately 715,000 visited in 1985.

Following completion of Trans-Alaska Pipeline System construction in mid-1977, population which totaled 411,000 in 1978, declined to 402,000 in 1980. Since this decline, major gains have been realized, particularly in the early 1980s resulting in an approximate total increase of 25% for 1980-1984. Current estimated 1985 population is 566,600. For 1980-1984, all sectors of employment continued to experience growth with the exception of mining and manufacturing which had 11% and 1% declines, respectively. Government employment, historically high in Alaska, accounts for 29% of total employment for 1980-1984. Per capita money income experienced modest gains, with the 1981 level at \$11,722. This represents 134.8% of the U.S. average; at \$12,900 in 1983, it was the equivalent of 136.8% of the U.S. average. Total personal income for 1980-1984 increased from \$5,238 million to \$8,739 million, or 66.8%.

Finances: The state continues to portray a strong financial posture. Fiscal 1985 unrestricted revenues for the general fund totaled approximately \$3.2 billion, excluding amounts which go directly to the permanent fund. Petroleum revenues accounted for approximately 65% of total unrestricted revenues, down from a peak of 90% in 1980. Projected unrestricted general fund revenue for fiscal 1986 is \$3.1 billion, of which \$2.1 billion, or 65%, will be from petroleum revenues. As of Dec. 31, 1985 the permanent fund balance was \$7.0 billion. The fund is expected to total \$8.5 billion by 1990 and \$16.6 billion by 2000. The amount of fund income available for dividends in 1985 was \$217.3 million, with 521,323 eligible applicants receiving \$404.

An amendment to limit state appropriations to \$2.5 billion, approved by voters at the November 1982 general elections, will be placed on the ballot for reconsideration in the 1986 general election. Under the amendment, state appropriations cannot exceed \$2.5 billion for any fiscal year by more than the cumulative change, based on federal indices in population and inflation, after July 1, 1991. If rejected, it will be repealed. If approved, the amendment would become permanent, and appropriations may be subjected to impoundment powers of the governor, who may withhold or reduce appropriations during a budget year if revenues are less than appropriations. The amendment has not been operative, and has exceeded any revenues or accrued surpluses available for appropriation.

Debt: Historically, the issuance of state debt has been significant due to the state's commitment to capital improvement programs. The state is currently studying the implementation of a debt management policy, which may have been influenced by declining oil revenues and the need to meet unfilled infrastructure requirements while maintaining a conservative debt position. The policy will include all debt that relies on state general fund appropriations, in particular all non-self-supporting state debt, including G.O. debt, lease revenue debt, and similar obligations paid by the state. The state's last debt issuance was in fiscal 1983. Maximum annual debt service on all bonds is \$175.7 million, due in 1986. As currently structured, debt service requirements will decrease substantially through 2000.

Anthony H. Arthur
(212) 208-1777

Alaska Municipal Bond Bank

Reviewed; ratings affirmed

Rationale: S&P affirms the 'A' rating on all outstanding Alaska Municipal Bond Bank's general obligation bonds and the 'A-' rating on all outstanding bond bank revenue bonds. About \$188.5 million of debt is affected. The basis of the rating is the moral obligation of the state. S&P policy establishes this rating at one full category below the existing rating of the state. In this case, the rating would be 'A-' based upon the state's 'AA-' rating. However, the G.O.s of the bond bank where the state has the authority to withhold aid to participating units, in lieu of debt service payments upon the request of the bank, are rated 'A'. The revenue bonds remain at 'A-', where no withholding provisions exist.

The bank: The Municipal Bond Bank Act established the bank as a public corporation and instrumentality of the state of Alaska within the department of revenue, but separate from and independent of the state. The bank, which began operations in August 1975, was created for the purpose of lending money to government units within the state of Alaska by purchasing municipal bonds issued by such governmental units. Under the act and the bank's general resolution, the bank initially was authorized to purchase only G.O. bonds. Effective May 16, 1978, the Alaska state legislature authorized the bank to purchase municip-

pal revenue bonds, and provided that the bank shall be called the Alaska Municipal Bond Bank Authority when issuing revenue bonds, and the Alaska Municipal Bond Bank when issuing G.O. bonds. The purchase of bonds is dependent upon bond counsel's opinion, stating that the bonds are valid obligations of the governmental unit as required by the act and that a loan agreement has been authorized and executed between the bank and the governmental unit, which constitutes a valid and binding obligation of the governmental unit. The powers of the bank are vested in a five-member board of directors, three of whom are public members appointed by the governor and confirmed by the state legislature. The three appointees serve four-year staggered terms. The remaining two members, the Commissioner of Revenue and the Commissioner of Community and Regional Affairs, are permanent.

Finances: Ongoing operations of the bank are not funded by the state's general fund appropriations, but by fees and charges and interest earned on investments. The bank is not allowed to carry surpluses, which must be returned to the state. Since its inception, the bank has returned \$7.6 million. In fiscal 1985, \$1.8 million was returned. The reserve fund, which receives capital appropriations from the state's general fund for

funds leveraging, is maintained at an amount equal to the maximum annual debt service requirement. As of June 30, 1985, the Alaska legislature has appropriated \$17.9 million to the bank for the statutory reserve fund, of which approximately \$5.4 million is available to meet statutory reserve fund requirements for future bank bond issues. The bank is annually required to deliver a statement to the governor and state legislature, stating the sum, if any, necessary to restore the reserve fund to the required debt service reserve level. The state is not legally obligated to make such an appropriation and, to date, it has never been necessary.

Debt: The bank has issued \$192.8 million in bonds with \$165.5 million currently outstanding. The outstanding debt is comprised of G.O. revenue, coastal energy reserve, and coastal energy loan program bonds. There is a statutory debt limit of \$300 million, of which \$131.5 million remains available. During 1982-1985, the bank's debt issuance has been \$48.5 million, \$30.6 million, \$7.0 million, and \$25.8 million, respectively. Due to declining state petroleum revenues, it is anticipated that local units will be turning to the bank on a regular basis for the financing of their capital needs.

Anthony H. Arthur
(212) 203-1777

North Slope Borough, Alaska

Reviewed: ratings affirmed

Rationale: S&P affirms North Slope Borough, Alaska's outstanding 'BBB+' rating on approximately \$794.9 million general obligation bonds. The rating on \$52.8 million series D bond anticipation notes due Nov. 18, 1988 is also affirmed at 'SP-1+'. An additional \$428.6 million of G.O. debt is outstanding but secured separately by various credit enhancements. The long-term debt rating reflects the narrowness of the borough's economic base, the large amount of debt supported by that base, debt carrying charges that represent 67% of general fund expenditures, balanced by good financial operations and a strong financial position. The borough's economic viability entirely depends on the oil and gas industry, and the outlook for any significant diversification is poor. Due to remoteness and harsh environmental conditions, development of the limited infrastructure that supports the small community required the issuance of large amounts of debt. Total G.O. debt currently outstanding is approximately \$1.3 billion. The pace of debt issuance slowed over the past two years and is not expected to exceed \$107.4 million over the next three years. As a result, maturing debt should exceed new debt issuance over the period. The debt matures rapidly, with 48% rolling off in five years, and 95% in 10 years. The borough derives 60% of its revenues from a tax on oil- and gas-related real property improvements. Therefore, its main revenue stream is unaffected by fluctuations in oil prices. A small effect is expected from the recently settled pipeline tariff agreements which includes owners' income in the property assessment formula. The borough could lose up to \$2 million annually as a result of the settlement (0.6% of total revenues). An additional 27% of revenues is derived from interest earnings. The very large debt burden appears adequately supported by an increasing but very narrow tax base.

Issues: North Slope Borough is a vast, geographically isolated, sparsely populated area located entirely north of the Arctic Circle. Barrow, located almost 2,000 miles northwest of Seattle, is the borough seat and its largest city (population of 2,647). The virtually impassable Brooks Range forms the borough's southern boundary. A wide range of services is provided by the borough, including health, safety, sanitation, utilities, education, housing, and transportation systems. The borough is analogous to the county form of government in the lower 48 states, but has greater governmental powers. Remoteness, the absence of a modern infrastructure, and severe climatic conditions make the cost of development enormous.

Debt: Debt issuance increased sharply in 1983 and 1984 as infrastructure improvements were made to provide services to residents and to accommodate increased oil-related economic activity. The borough currently has outstanding \$1.3 billion G.O. bonds and bond anticipation notes (net of refunded debt). Debt on a per capita basis is extremely high at \$12,704, but is a more moderate 7.6% of true value (\$13 billion in 1986). Carrying charges are very high as a percent of expenditures. The primary source of payment for the debt is a property tax assessed

on capital improvements made at the oil and gas fields at Prudhoe Bay and Kuparuk. These properties represent 95% of the tax base. Capital financing of \$107.4 million is planned for the next three years. These funds will be raised principally through issuance of G.O. bonds. An emergency debt service reserve fund was established during fiscal 1984 and is funded at 15% of outstanding debt. At July 1, 1985, a balance of \$184 million was available in this fund. Debt service requirements for 1985 totaled \$189 million.

Economy: Oil and gas production, transportation, and exploration form the base of the borough's economy. Before the discovery of oil and gas at Prudhoe Bay in 1968, and the construction of the Alyeska Pipeline, economic activity was limited to subsistence hunting, fishing, and military activities (DEW LINE maintenance and research). Further diversification of the economy is not expected due to extreme geographic and climatic problems. The lack of a highway system within the borough makes commercial air service and limited water transportation the only available means of mass transportation.

Within the next 25 years, no basic industry is projected to supplement the oil and gas industry. Maintenance or expansion of the oil industry depends on competitive lease offerings by the state and federal governments. The lead time from lease to production is approximately 10 years. The present production level of Prudhoe Bay of 1.5 million barrels of oil per day represents roughly 16% of U.S. domestic production. Proven, extractable reserves at Prudhoe Bay are currently projected to last 11 years. Production at Kuparuk has begun and is expected to be 250,000 barrels of oil per day during 1986. An industry investment in Kuparuk is expected to total \$8 billion and the economic life of the field is projected at 20-30 years. The two major North Slope operating companies are Atlantic Richfield Co. (Arco) and Standard Oil Co. of Ohio (Sohio). Although Arco's 1986 North Slope construction budget was reduced from \$715 million to approximately \$500 million as a result of reduced oil prices, work on the Prudhoe Bay Gas Plant and the Kuparuk Lisburne production facility will continue. Sohio has indicated it will proceed with its 1986 construction program as planned.

Finance: General fund financial operations remain strong. Significant operating surpluses were generated in each of the past five years which were transferred to the reserve for capital outlay fund, the emergency debt service reserve fund, or the recently created permanent fund. At July 1, 1985, balances available in these funds were \$72 million, \$184 million, and \$117 million, respectively. As a result of these transfers, the general fund balance was reduced from \$56 million in 1983 to \$4 million in 1985. The three primary revenue sources of the general fund are property taxes (60%), interest earnings (27%), and state aid (10%). Tax collections are excellent, reaching roughly 99% on a current basis in each of the last five years. Debt service of \$189 million represented 67% of general fund expenditures in 1985. As of July 1, 1985, a balance of \$184 million was available in

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the emergency debt service reserve fund. Monies in excess of the 15% requirement in this fund will be transferred to the permanent fund. As of June 1985, \$4 million was transferred from the emergency debt service reserve fund to the permanent fund. An additional \$79 million transfer from the general fund left a balance of \$117.4 million available in the permanent fund to be held in perpetuity. Interest earnings on permanent fund bal-

ances will be used for general fund operations. Although financial management is sound, large debt service carrying charges, the range of services provided, and the high cost of service provision will continue to absorb the borough's large financial resources.

Maury Cooper
(212) 208-1757

MUNICIPAL REVENUE

Alaska Industrial Development Authority

\$11 million variable demand/fixed rate bond due 2004
Sold, February 25, Goldman, Sachs & Co.
Rated 'A--'

Rationale: S&P assigns an 'A--' rating to the Alaska Industrial Development Authority's conversion of its variable demand/fixed rate bonds, series 1984 A and B to a fixed rate. The 'A--' rating on the outstanding economic development bonds, the consolidated bonds, and the umbrella bonds is affirmed. The rating is based upon the moral obligation pledge of the state of Alaska, whose rating is affirmed at 'AA--'. The bonds are additionally secured by the general obligation of the authority.

Issuer and security: The state legislature established the Alaska Industrial Development Authority in 1967 to aid in economic development. The authority was originally created to administer the enterprise development fund. This fund was capitalized in 1981 with \$166 million in state-originated loans. In addition, the state contributed \$23 million to fund the capital reserve funds. In 1982 and 1984, the enabling act was amended to expand the authority's powers. In 1982, the multifamily housing loan security fund was set up and in 1984 the economic development fund. All three programs are legally separate and distinct. All economic development activities are channeled through the enterprise development fund. This fund holds the authority's general assets from which all of the authority's general obligation indebtedness is payable. The enterprise development fund as of Dec. 31, 1985 had general assets of \$525 million. The multifamily housing fund, which is not an asset of the authority, provides additional security to any of the authority's G.O. bonds issued for multifamily housing projects. This fund at Dec. 31, 1985 held \$8 million in assets. The economic development fund empowers the authority to own and operate certain types of facilities when it is in the public interest to do so. This fund was capitalized with an appropriation of \$12 million in cash and \$132 million in loans held by the state. Financial obligations or liability incurred will be secured solely by the economic development fund and there is no general obligation pledge of the authority.

The authority has four types of bond issues outstanding: economic development bonds, consolidated bonds, umbrella bonds, and variable demand/fixed rate bonds. All issues except the variable demand/fixed rate bonds are secured by a general obligation pledge from the authority. Variable demand bonds are special obligations of the authority which become G.O.s upon conversion to a fixed rate. All bonds are further secured by the state's moral obligation pledge. If necessary, the state's legislature can, but is not obligated to, appropriate funds to the bonds through their capital reserve funds pursuant to notice under state statutes, if these reserves fall below required levels. The authority's total outstanding G.O. debt at June 30, 1985 is \$213 million. This issue will increase debt by \$11 million to \$224 million. Total variable rate/fixed rate debt at Dec. 31, 1985 excluding this conversion is \$40 million. The total \$40 million is expected to be converted to fixed rate by the end of 1986 for \$254 million in G.O. debt of the authority.

The economic development bonds provide funds for participations in loans for industrial and commercial projects up to \$1 million. All revenues from these loan participations are pledged first to the payment of economic development bonds and then

to the other G.O. debt of the authority. As of June 30, 1985, the total outstanding economic development bond debt was \$126 million. Consolidated bonds provide funds for participations in loans for industrial, commercial, and multifamily housing projects from \$1-\$10 million. Revenues from these participations are not specifically pledged to the repayment of consolidated bonds. However, this is not a credit concern because both economic development and consolidated bonds are secured by the authority's general obligation and the state's moral obligation pledges. As of Dec. 31, 1985, outstanding consolidated bonds totaled \$59 million.

The new umbrella bond program is intended to replace both the economic development and consolidated bonds. These new bonds do not have claim to the economic development, consolidated, and variable rate bonds' existing capital reserve funds. A separate reserve fund for the umbrella bonds was established with similar provisions to the previously issued bonds. At Dec. 31, 1985, the balances in all the capital reserve funds for the authority's G.O. debt is \$26 million. This balance reflects the average annual debt service payments of the bonds.

Loan portfolio: The authority's portfolio of loans falls into three categories: bond loans, appropriation loans, and federal guaranteed loans. Bond loans derive their funds from bond proceeds, appropriated loans from state appropriated money, and federal guaranteed loans from the authority's funds on hand. These three sources of funds are used to buy loan participations from Alaska financial institutions. The fiscal 1985 composition of the portfolio is 22% appropriated loans, 61% bond loans, and 17% Small Business Administration (SBA) guaranteed loans. Appropriated loans are expected to decline to an insignificant percentage of the portfolio by 1991. Funds from the paid-off appropriation loans are used to buy SBA loans or investments. However, no SBA loans have been purchased in the last year due to remittance procedure problems with the new SBA servicer FIDATA. Until this situation is eliminated, no future investments in the SBA program will be maintained. The authority's purchase of loan participations is limited to completed projects that satisfy all terms of the authority's loan underwriting criteria. The authority's capital participation rate in loans under \$1 million is 90% and 80% for those between \$1-\$10 million. Loans are disbursed geographically in proportion to the state's population distribution. As a result, the Anchorage area has the highest percentage of bonded loans at 55.5%. The portfolio's investment in projects is concentrated mainly in commercial space, approximately 78% in fiscal 1985. Bond loans delinquency rates on 90 days and over are still below 1%, even given the slump in the Alaska economy. This low rate is attributed to stringent underwriting criteria. In addition, each participating financial institution must provide servicing on all loans and maintain a 90-day delinquency rate below 2% or be suspended from selling new participations until the rate is controlled. The authority has a loan loss reserve fund of \$2.6 million. This was created in 1991 and to date, the only charge offs are \$1.1 million in defaulted appropriated loans. The reserve is

returned to its original level from earnings. The authority reviews the adequacy of this reserve fund annually with its accountants.

Finances: The authority's assets have grown from \$218 million in 1981 to \$524 million in 1985. Liabilities total \$220 million in fiscal 1985, of which \$213 million are bonds payable. All operating expenses are paid from commitment and finance fees. In fiscal 1985, this totaled \$1.4 million to cover expenses of \$1.1 million. Net earnings have risen from \$16 million in fiscal 1981 to \$30 million in fiscal 1985. The authority has unrestricted investments, capital reserve funds, cash, and interest earnings totaling \$157 million at June 30, 1985 to meet shortfalls in debt ser-

vice of approximately \$28 million. Unrestricted surplus at June 30, 1985 is \$264 million.

During fiscal 1986, the authority will convert all of its remaining \$40 million variable rate debt to fixed. In addition, during 1986's first half it intends to issue its first taxable financing of \$15 million. For fiscal 1987 and beyond, approximately \$65 million in debt will be issued a year. It is impossible to determine how H.R. 3639 will affect future issuances other than to assume the program will continue with additional volume constraints.

Andrea M. Esposito
(212) 208-1834

Alaska Housing Finance Corp.

Reviewed: ratings affirmed

Rationale: S&P affirms Alaska Housing Finance Corp. (AHFC) ratings on \$4.27 billion in outstanding taxable and tax-exempt debt. The bonds, issued under 59 resolutions, are secured by over 52,000 level-paying mortgage and growing equity mortgage (GEM) loans. The loans are originated throughout the state by private lenders and subsequently purchased by the AHFC with bond proceeds. Direct state appropriations (in cash and in mortgages) permit the purchase of mortgage loans which bear interest at legislatively prescribed "below market" rates. To enhance the security of its bonds, the AHFC has entered into various credit arrangements. They include: Federal Housing Administration (FHA) Title I Insurance, Federal National Mortgage Association (FNMA) and Government National Mortgage Association (GNMA) collateralization, bank letters of credit, and surety bonds. Additionally, the issuer enjoys strong support from the state of Alaska; 13 issues are guaranteed by a pledge of the state's full faith and credit. The affirmed bond ratings reflect the strength of the credit enhancements (see list at right).

Issuer: To date, AHFC has received \$583 million in state appropriations. Fiscal year ending June 1985 witnessed no requests for additional funding. Such funding will not be sought in the foreseeable future. Fund balances of \$1,458 million (fiscal 1985) reflect the healthy, well managed performance of the issuer to date. The corporation has a staff of 43 with experience in administration, mortgage underwriting, and finance. AHFC is governed by a five-member board consisting of two ex-officio and three governor-appointed members.

Programs: Since its inception in 1971, AHFC has adopted many innovative programs and financing techniques. The principal activities include:

— **Mortgage loan subsidization.** All of the corporation's programs provide an interest rate subsidy on the first \$90,000 of a mortgage loan to Alaskan borrowers. The state currently subsidizes the mortgage loans to a maximum of 3% (4% for eligible veterans) below the cost of taxable funds to the corporation. However, loan rates may not be less than 10% (8% for veterans) unless the corporation's related cost of funds is less than 10%.

— **Taxable bonds.** To overcome the constraints of tax-exempt issuance caps (\$200 million per annum), the corporation began issuing taxable bonds in 1981. It currently has approximately \$1.3 billion in taxable debt outstanding, \$100 million of which was issued in 1985.

— **Alaska Building Equity loan program.** In 1983, AHFC introduced its own version of the GEM loan. Titled the Alaska Building Equity (ABE) loan, it requires an increase in the borrower's monthly payments to provide for an accelerated amortization of principal. Thus, it can take advantage of shorter-term, lower interest taxable bonds.

— **FNMA collateralization.** In 1983, AHFC signed a \$530 million pool purchase contract with FNMA enabling Alaskan mortgages to be swapped for FNMA mortgage-backed securities

Rated debt outstanding	Amt. (mil. \$)	Rating
Housing mortgage bonds (nonparity)		
1972 series A.....	10.8	AA
1973 series A.....	10.3	AA
1973 series B.....	29.8	AA
1975 series A.....	30.6	AA
1975 series B.....	19.5	AA
Insured mortgage bonds (parity)	911.7	A
1975 first series; 1976 first and second series; 1977 first, second, and third series; 1978 first, second, and third series; 1979 first and second series; 1980 first, second, and third series;		
State-assisted mortgage bonds (nonparity)		
Series A.....		A
Series B and C.....	70.7	AA
Series D and E.....	90.5	A-
Series F.....	170.8	AA
Series H.....	50.0	AA
Series I.....	60.0	AA
Series J.....	50.0	AA
Series K.....	75.0	AA
Series L.....	78.0	AA
Series M.....	75.0	AA
Series N.....	75.0	AA
Series O*.....	50.0	AAA
Series P*.....	50.0	AAA
Home mortgage bonds (nonparity)		
1981 first series.....	79.6	A-
1981 second series.....	60.9	A
1982 first series.....	77.6	AA-
1982 second series.....	93.3	AA-
1983 first series.....	73.1	AA-
1983 second series.....	122.4	AA-
Collateralized 1984 series A.....	75.0	AAA
Collateralized 1984 series B.....	127.4	AAA
Collateralized 1985 series A.....	100.0	AAA
Collateralized 1985 series B.....	102.4	AAA
State-guaranteed bonds (nonparity)*		
1983 first series.....	48.2	AA
1983 second series.....	117.5	AA
1983 third series.....	72.0	AA
1983 fourth series.....	94.7	AA
1983 fifth series.....	48.3	AA
1983 sixth series.....	72.7	AA
1984 first series.....	130.0	AA
1984 second series.....	100.0	AA
Collateralized 1984 first series.....	100.0	AAA
Collateralized 1984 second series.....	302.5	AAA
Collateralized 1985 first series.....	150.0	AAA
Second mortgage bonds	9.3	AA
Fairbanks North Star Borough res. m.g. bonds.....	28.1	A-
AHFC Overseas Finance N.V. gto. bonds.....	98.1	AAA

*Guaranteed by full faith and credit of the state of Alaska.

(continued on next page)

(MBSs). These MBSs are then, in effect, purchased with bond proceeds and used as collateral for the bonds. Such collateralization has enabled the issuer to obtain 'AAA' ratings on 10 tax-exempt and taxable issues to date.

—*Recycling* AHFC relies heavily on recycling, wherein prepayments are used to make new mortgages, in many of its

bond structures. This technique has reduced the need for future bond financings and state appropriations.

Lori-Ann Wynter
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Platte River Power Authority, Colorado

\$113 million electric revenue bonds due 2018
Sold, February 20, Salomon Brothers Inc.
Rated 'A+'

Rationale: The \$113 million issue of Platte River Power Authority electric revenue bonds is rated 'A+', along with \$518 million of outstanding parity debt. The 'A' rating of the Loveland, Colo. electric revenue bonds was reviewed in connection with this sale and is affirmed. The ratings reflect the strength of the participant cities' economic bases and good financial performances. The authority's rates to the cities are low because capacity charges to Public Service Co. of Colorado are sufficient to pay debt service. Bond proceeds will be used to retire all outstanding commercial paper. The authority has refunded the commercial paper program instead of retiring it from revenues as was planned to avoid potential tax problems and to take advantage of current long-term interest rates.

Security: The bonds are secured by take-or-pay contracts with the cities of Fort Collins (45.7% of the project), Longmont (28.1%), Loveland (21.5%), and Estes Park (6.1%). The authority's rate covenant is net revenues 1.25 times (x) adjusted aggregated debt service. Debt service is adjusted to levelize payments of term bonds in 2000 and 2002. The additional bonds test requires net revenues in 12 of the preceding 24 months prior to issuance to meet the rate covenant. Additional security is provided by a debt service reserve fully funded to maximum debt service at the time of bond issuance.

Operations: Platte River's resources include energy and capacity under contract with the Western Area Power Administration (WAPA) through 1989. The authority receives 158mw in the winter and 238mw in the summer. The authority owns the 255mw coal-fired Rawhide Energy Station and an 18% share of the Yampa Project coal-fired Craig units, totaling 154mw. Excess capacity in the Craig and Rawhide units is sold to Public Service under a contract through 1994, which is less than the life of the bonds. Public Service is obligated to take-or-pay for capacity and energy made available in accordance with the schedule in the contract. If the contract schedules are not met, Public Service has the option to terminate the contract. Therefore, these bonds are not rated on the basis of the Public Service contract. Revenue derived from these sales is sufficient to pay all Platte River debt service at this time. In 1995, Platte River sold 340.5mw of capacity per month and 2,350gwh to Public Service.

Platte River expects peak demand to grow at a compound rate of 5.4% per year in the future and for energy sales to grow 5.9% per year. Since 1980, annual growth rates ranged from -3.8% to 16.4% for peak demand and from 3.3% to 11.8% for energy sales. The average growth rates of 5.9% and 5.7%, respectively, were strong despite this volatility. Based on this growth, Platte River expects to sell power from Yampa and Rawhide to participants when sales to Public Service end.

Rates: The authority is currently charging the participants 35 mills per kwh. Retail rates in all cities except Loveland are below those of Public Service and the Poudre Valley cooperative supplied by Tri-state generation and transmission cooperative.

Loveland's rates are only marginally above Public Service's rates. The authority does not anticipate raising rates to the participants until 1991 when it begins taking back its Rawhide capacity. Between 1991 and 1998, rates are expected to rise from 35.2 mills per kwh to 55.2 mills per kwh.

Finances: During the last two years, Platte River changed from a construction-oriented organization to an operating power supplier. The effect of this change is clearer when the operating statements for 1983 and 1984 are compared. Revenues grew 105% in that year and operating expenses grew 107%, primarily due to a 185% increase in depreciation with the start-up of Rawhide. During 1985, only 29.5% of revenues came from sales to the participants, the remainder of the revenues came from sales to Public Service. Annual debt service coverage was 1.49x in 1984 and 1.53x in 1985, including commercial paper interest. The balance sheet continued to improve in 1985. The current ratio was 4.39:1 and the quick ratio was 1.69:1. Leverage declined as the ratio of debt to plant declined to 1.14:1 from 1.20:1.

Participants: Fort Collins, Loveland, and Estes Park are in Larimer County, north of Denver, and Longmont is in Boulder County, west of Denver. The key economic sectors in this area are manufacturing, services, retail trade, and government. High technology electronics are a major source of employment, with manufacturing facilities of Hewlett-Packard Co., Storage Technology Inc., and NCR Inc. located in the participant cities. Colorado State University is another major employer in Fort Collins. The average unemployment rates for 1985 are below the national average in both counties, but rose slightly toward the end of the year to 7.1% in Larimer County and 6.7% in Boulder County. Total numbers employed remained stable.

Participants	Fort Collins	Longmont	Loveland	Estes Park
% Platte River	45.7	28.1	22.5	6.1
Peak demand 1985	110	69	48	14
gwh sold 1985	682	332	250	72
Population est. 1985	83,000	49,800	35,300	7,500
1984 revenue (000)	30,487	17,981	15,820	4,572
Debt serv cov. (x)	0	0	5.80	0
Current ratio**	5.17:1	3.15:1	5.43:1	N.A.

*No electric revenue bonds outstanding

**Current assets/current liabilities

N.A.—Not available

The financial performance of the participants is good. Each has had a positive trend in revenues and controlled growth of expenses in recent years. On-balance sheet debt service coverage is less than 1.00x for all participants because Platte River debt service payments are subsidized through the Public Service contract.

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Introduced: 3/15/85
Referred: Community & Regional
Affairs, Judiciary and Finance

FILES: BONDS
CC: NORDELL -
BOLEHO -
BARKER -
BOUAIN -
WOHLFORTH -

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 293

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to municipal default on bonded indebtedness; establishing the Municipal Financial Emergency Commission; and providing for an effective date."

7

8

9

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

11 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

12

(1) while the power of municipalities to contract debt for capital improvements is granted by the Alaska Constitution, revenues that may be raised to repay the debt are limited by the extent to which the state has delegated taxing authority to the municipalities under art. X, sec. 2 of the Alaska Constitution;

17

(2) the state has a strong interest in debt issuance by municipalities because of the impact on state revenue as a result of municipal assessment to repay debt and because of the effect on the marketability of bonds issued by the state and its agencies, by public corporations of the state, by other municipalities, and by the Alaska Municipal Bond Bank Authority;

23

(3) bonds issued by municipalities are not legal obligations of the state, nor are the bonds supported by the moral obligation of the state; and

26

(4) it is in the public interest, and is declared to be a public purpose, to promote the prosperity and general welfare of all the people of the state by assisting in the development and implementation of refinancing plans for municipalities that have defaulted on outstanding debt.

1 * Sec. 2. AS 29.58 is amended by adding new sections to read:

2 ARTICLE 7. DEFAULT ON BONDED INDEBTEDNESS.

3 Sec. 29.58.400. MUNICIPAL FINANCIAL EMERGENCY COMMISSION. (a)

4 The Municipal Financial Emergency Commission is established in the
Department of Community and Regional Affairs.

DCRST??

6 (b) The members of the commission consist of the commissioner of
7 the Department of Community and Regional Affairs, the commissioner of
8 the Department of Revenue, and the commissioner of the Department of
9 Administration. Members of the commission may appoint a designee to
10 serve on the commission.

11 (c) The commissioner of the Department of Community and Regional
12 Affairs shall chair the commission. A quorum of the commission con-
13 sists of two members.

14 (d) The commission may employ staff as is necessary to accom-
15 plish the purposes of the commission.

16 Sec. 29.58.410. DUTIES AND POWERS OF THE COMMISSION. (a) Upon
17 receipt of a written notice of a default by a municipality, as provid-
18 ed in AS 29.58.420, the Municipal Financial Emergency Commission may

19 (1) investigate the defaulting municipality's fiscal af-
20 fairs, consult with the assembly or council of the defaulting munici-
21 pality, and negotiate with creditors in order to assist the municipal-
22 ity in developing a plan for satisfaction of the outstanding debt;

23 (2) direct a state agency holding money on behalf of or
24 payable to the defaulting municipality to pay the money either to the
25 commission for payment to creditors, or to the defaulting municipality
26 for disposition as required under an adopted plan;

intercept

27 (3) determine whether a proposed plan is fair and equitable
28 and within the ability of the defaulting municipality to meet, and, if
29 so, enter an order finding that it is fair, equitable, and within the

*What will happen in state
what about leg committee of leasing*

1 ability of the municipality to meet;

2 (4) advise the defaulting municipality to take the neces-
3 sary steps to implement the plan;

4 (5) order the defaulting municipality to take the necessary
5 steps to implement the plan if the municipality fails to implement the
6 plan within 30 days after receiving the advice of the commission to
7 implement the plan;

8 (6) require periodic reports on the defaulting municipali- *if don't take plan - the more stringent*
9 ty's financial affairs during the period in which the plan is imple- *power*
10 mented;

11 (7) approve or reject the defaulting municipality's annual
12 budget ordinance during the period in which the plan is implemented;

13 (8) approve or reject the issuance of additional bonds,
14 notes, or other debt, whether short- or long-term, during the period
15 in which the plan is implemented;

16 (9) impound the books and records of a defaulting municipi-
17 tality and assume full control of its financial affairs, including the
18 levying of taxes, expenditure of money, and adoption of budgets, if
19 the municipality fails to implement a plan, or if, in the opinion of
20 the commission, the defaulting municipality will default on a future
21 debt service payment under the plan if the financial policies and
22 practices of the municipality are not improved; and

23 (10) order a defaulting municipality to pay for the cost of
24 developing and implementing a plan.

25 (b) The power and authority granted to the commission continues,
26 with respect to a defaulting municipality, until the commission is
27 satisfied that the defaulting municipality has performed or will
28 perform the duties required of it in the plan, and until agreements
29 made with the defaulting municipality's creditors have been performed

1 in accordance with the plan.

2 (c) The commission is authorized to take all actions necessary
3 to accomplish the purposes of AS 29.58.400 -- 29.58.490, including,
4 but not restricted to, the authority to issue subpoenas necessary for
5 the production of documents and the authority to issue orders. A
6 superior court may, upon application of the commission, compel obedi-
7 ence with a subpoena or order issued by the commission.

8 Sec. 29.58.420. NOTICE OF DEFAULT. (a) A municipality shall
9 give notice of default to the commissioner of community and regional
10 affairs within 10 calendar days after actual knowledge of the default.

11 (b) A creditor may give notice to the commissioner of community
12 and regional affairs any time after a default by a municipality.

13 (c) A municipality may request the assistance of the commission
14 at any time before default if, in the judgment of the municipality,
15 assistance from the commission will assist the municipality in reliev-
16 ing financial distress.

17 Sec. 29.58.430. ACTION UPON RECEIVING NOTICE OF DEFAULT. The
18 commissioner of community and regional affairs shall convene a meeting
19 of the commission within 15 days after the receipt of a notice of de-
20 fault, or of a request for assistance, under AS 29.58.420. The de-
21 faulting municipality must be given notice of the meeting, and shall
22 send an authorized representative to the meeting to represent the
23 defaulting municipality during the development of a plan under AS 29.-
24 58.410.

25 Sec. 29.58.440. STAY OF COURT PROCEEDING. (a) A proceeding
26 initiated in court by a creditor must be stayed until 90 days after
27 the first meeting of the commission following the receipt of the no-
28 tice of default by the commissioner of community and regional affairs.

29 (b) The court may grant one or more 30-day extensions of the

1 stay, at the request of the commission, unless the court finds that
2 the defaulting municipality or the commission has not made a good
3 faith effort to negotiate a plan under AS 29.58.410.

4 Sec. 29.58.450. BANKRUPTCY PETITION. AS 29.58.400 -- 29.58.490
5 do not limit or otherwise affect the authority of a municipality to
6 file a petition in bankruptcy under 11 U.S.C. secs. 901 -- 946.

7 Sec. 29.58.460. PENALTY. A municipal official, employee, or
8 agent who knowingly violates a provision of a plan developed under
9 AS 29.58.410 is guilty of a class C felony.

10 Sec. 29.58.490. DEFINITIONS. In AS 29.58.400 -- 29.58.490,

11 (1) "commission" means the Municipal Financial Emergency
12 Commission;

13 (2) "creditor" means a person having standing to bring an
14 action for default on outstanding debt against the defaulting munici-
15 pality;

16 (3) "default" means the failure by a municipality to pay an
17 installment of principal or interest on its outstanding debt, on or
18 before the due date;

19 (4) "defaulting municipality" means a municipality that has
20 defaulted, or which continues to be subject to the jurisdiction of the
21 commission after the implementation of a plan under AS 29.58.410;

22 (5) "outstanding debt" means revenue anticipation notes,
23 bond anticipation notes, general obligation bonds, revenue bonds, or
24 refunding bonds issued under this chapter.

25 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
26 10.070(c).



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

HEARING DATE:

March 21, 1986

HB 293, HB 521

NAME (Please Print)	ADDRESS	REPRESENTING	TESTIFY (Yes or No)	PHONE NUMBER
George Carté	231 W. Evergreen, Palmer	Mayor City of Palmer (521)	Yes	745 3271
Jack R. Foster, Sr.	Box 125 Sand Point	Mayor City of Sand Point	Yes	383-2252
DAVID S. ...	271 W. ...	Mayor of Palmer, City Rep		745-3271
PHIL SHEALY	3670 LAKE ST. HOMER	CITY OF HOMER	YES	235-8121
Alan Robert	Box 2037 Palmer, AK	Mat-Su Borough	YES	745-9630
Sally Burgess	Juneau	AKL	Yes	6-1325
Eric Wohlfort	900 W. 5 th Ave. & 600 Anch AK	self (must testify by 7:45 p.m.)	yes	276-6401
John Rubini		AG'S office	✓	
Tam Cook		Log Log & Service	✓	
Conrad Nordale		Dept. Rev	✓	
Rita Unsworth	Box 409	City of Sitka	✓	262 9107

Briefing Materials

Debt Management Plan

February, 1986

State of Alaska
Office of the Governor

February 1986

DEBT MANAGEMENT PLAN

Governor Bill Sheffield

Through careful management, the State of Alaska has maintained the best credit rating we've ever had. The AA rating, in turn, has allowed local governments across Alaska to keep their investment grade ratings as well. This good credit rating translates into lower property taxes for Alaskans.

With dropping world oil prices, however, Alaska's annual debt payments automatically become a larger part of our expenses.

So, I have asked the 14th Alaska Legislature to approve a package of new laws which, viewed as a whole, will give our young state a plan for comprehensive debt management for the first time. None of these proposed improvements in our laws is flashy or exciting, but as a package they are vital to the continued financial health of Alaska. I encourage you to read the enclosed information.

In short, the debt management plan I have placed before the Alaska Legislature will keep the commitments voters have made to our future, particularly in regards to local school construction. The plan also will guarantee we can continue to incur a reasonable amount of debt for school construction and other improvements in the future, while we preserve our good credit rating.

DEBT MANAGEMENT PLAN

An Overview

Without firm control of public debt the credit rating of all debt issuers in Alaska could be in jeopardy. Right now the State has an AA rating, the highest it's ever had, and all issuers within the State are rated as investment grade. But as oil prices decline, the share of revenues devoted to debt service will become an increasingly heavier burden. The State of Alaska cannot control the price of oil. What we can and must control is the amount of public debt.

Proper stewardship of public debt in Alaska can be accomplished through enactment of legislation covering four distinct needs. Taken separately, each of the four bills brings reasonableness to a different aspect of public debt. But viewed as a whole, this legislation provides a plan for comprehensive debt management for the first time. It assures that all State-supported debt, which is any debt paid from the State general fund, is subject to the control of the State Bond Committee. It is this total of State supported debt which the rating agencies look to in establishing the State's credit rating.

The first bill, House Bill 293, provides for orderly financial management in the event of a default by a municipality of its debt obligations. This legislation protects both issuers of public debt in Alaska and creditors.

House Bill 519 provides for the lease financing of public buildings through the Alaska State Housing Authority, acting as

the Alaska State Building Authority. The bill gives the State Bond Committee control over issuance of this debt as well as debt of the University of Alaska.

House Bill 520 gives the State Bond Committee control over the total amount and maturity of municipal school debt to be reimbursed by the State. The investment community needs to see some control on this fast-growing part of State supported debt.

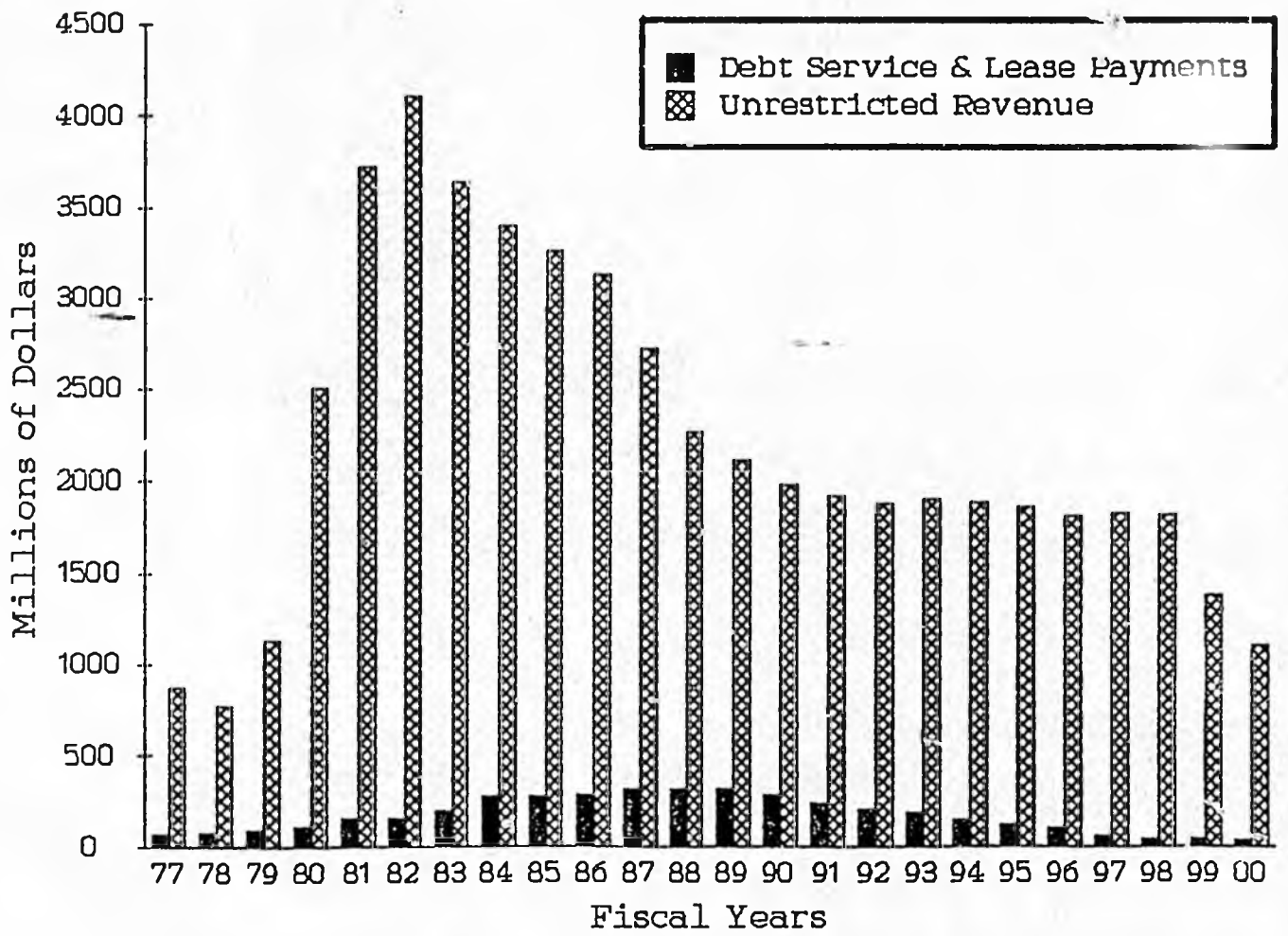
The fourth bill, House Bill 521 places a limit on the issuance of general obligation debt by municipalities. Even with this limit some municipalities in Alaska will have some of the highest debt ratios in the United States. This legislation does not limit the ability to issue revenue bonds.

As background, Alaska's combined debt (State, municipal and school district) through the issuance of general obligation bonds was \$2.9 billion as of June 30, 1985. That amounts to about \$5,500 per Alaskan. When the amount of G.C. Bond debt for veterans' housing is included in the total, Alaska's per capita debt load is \$7,000.

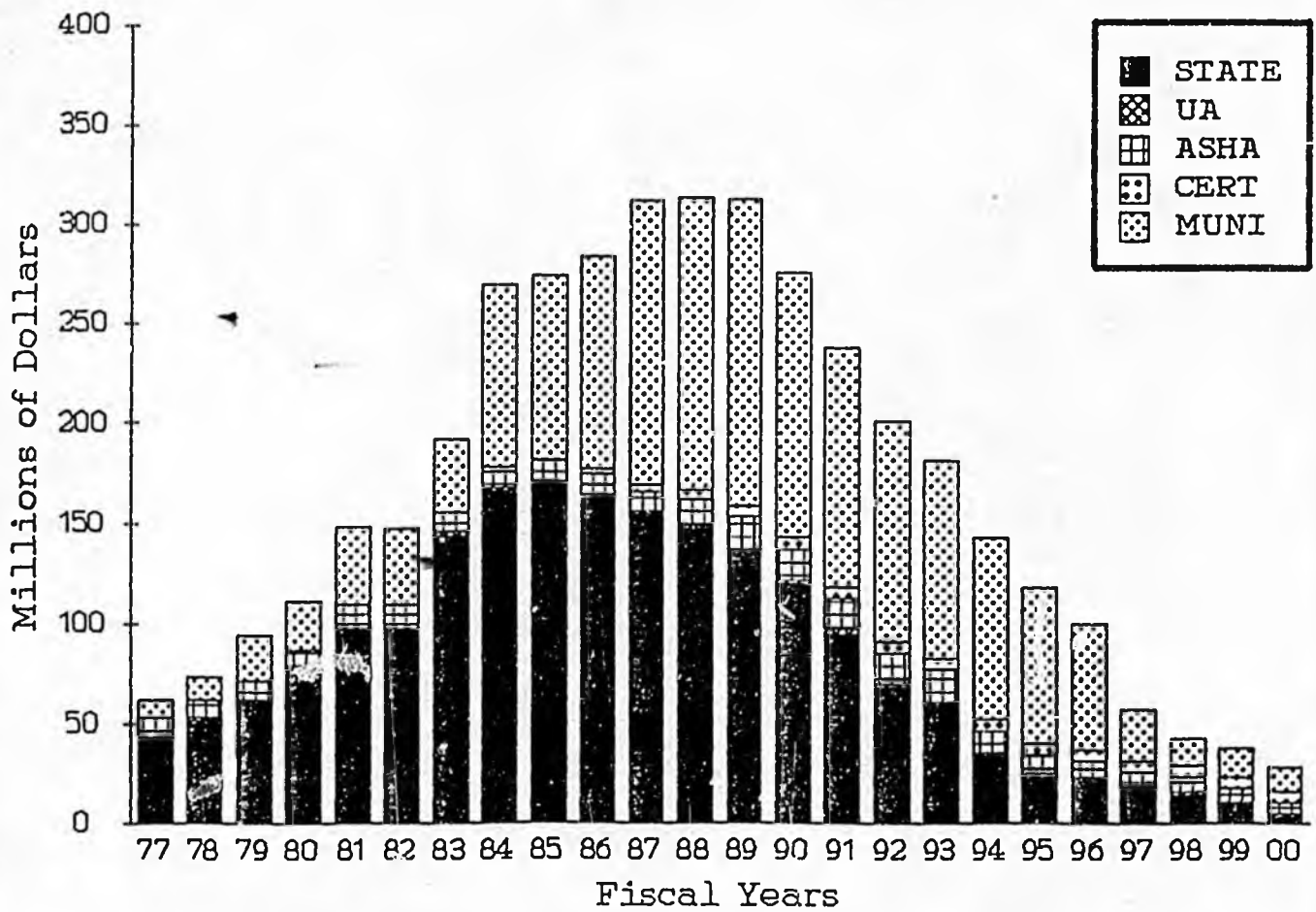
That debt is manageable, but it takes planning. The State of Alaska has not had a bond authorization since 1980. Yet, the per capita interest on the State's general obligation bond debt is 20 times the national average. State policy limits debt service to five percent of unrestricted revenues, but that ratio is about 10 percent now and could climb to 16 percent by fiscal year 1989.

Again, this is a result of a combination of factors. World oil markets have seriously eroded the revenue Alaska receives from oil and gas production. At the same time, Alaska voters have authorized new debts, including \$325.0 million in school construction bonds so far in fiscal year 1985 alone. That translates into a possible 30 percent increase in State

Debt Service vs. Unrestricted Revenue



Total Debt Service & Lease Payments (January 28, 1986)



DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

SEVEN PERCENT CAP

Borough	FULL VALUE	G. O. DEBT	7% OF FULL VALUE	PERCENT OF G.O. DEBT/CAP	CURRENT PERCENT DEBT
Anchorage	\$15,755,411,000.00	\$358,759,900.00	\$1,102,878,770.00	32.53%	2.29%
Bristol Bay	\$101,798,800.00	\$3,535,000.00	\$7,125,916.00	49.61%	3.47%
Fairbanks	\$4,210,997,700.00	\$90,928,500.00	\$294,769,839.00	30.85%	2.16%
Haines	\$93,945,500.00	\$1,300,000.00	\$6,576,185.00	19.77%	1.38%
Juneau	\$1,613,388,900.00	\$47,651,000.00	\$112,937,223.00	42.19%	2.95%
Kenai Peninsula	\$3,290,219,200.00	\$137,919,000.00	\$230,315,344.00	59.89%	4.19%
Ketchikan Gateway	\$675,985,100.00	\$31,930,000.00	\$47,318,957.00	67.48%	4.72%
Kodiak	\$572,370,700.00	\$28,270,000.00	\$40,065,949.00	70.56%	4.94%
Mat-Su	\$2,357,406,200.00	\$112,208,000.00	\$165,718,434.00	67.71%	4.74%
North Slope	\$12,876,786,900.00	\$1,155,680,000.00	\$901,375,083.00	128.21%	8.97%
Sitka	\$396,227,900.00	\$12,400,000.00	\$27,735,953.00	44.71%	3.13%
Total Boroughs	\$41,954,537,900.00	\$1,980,631,400.00	\$2,936,817,653.00	67.44%	4.72%

CITIES

Bethel	\$182,296,700.00	\$556,500.00	\$12,760,783.00	4.36%	0.31%
Cordova	\$120,373,000.00	\$0.00	\$8,447,110.00	0.00%	0.00%
Craig	\$34,707,400.00	\$0.00	\$2,429,518.00	0.00%	0.00%
Delta Junction	\$30,870,500	\$0	\$2,160,935.00	0.00%	0.00%
Dillingham	\$94,669,900.00	\$0.00	\$6,626,893.00	0.00%	0.00%
Eagle	\$9,104,500.00	\$0.00	\$637,315.00	0.00%	0.00%
Galena	\$19,149,500.00	\$900,000.00	\$1,340,465.00	67.14%	4.70%
Hoonah	\$27,845,200.00	\$0.00	\$1,949,164.00	0.00%	0.00%
Hydaburg	\$12,688,900.00	\$0.00	\$888,223.00	0.00%	0.00%
Kake	\$11,608,000.00	\$0.00	\$812,560.00	0.00%	0.00%
King Cove	\$23,230,800.00	\$0.00	\$1,626,156.00	0.00%	0.00%
Klawock	\$5,563,000.00	\$0.00	\$389,410.00	0.00%	0.00%
Kotzebue	\$93,245,100.00	\$0.00	\$6,527,157.00	0.00%	0.00%
Nenana	\$12,881,500.00	\$2,717,000.00	\$901,705.00	301.35%	21.09%
Noe	\$116,712,900.00	\$2,161,200.00	\$8,169,903.00	26.45%	1.85%
Peirican	\$10,155,400.00	\$0.00	\$710,878.00	0.00%	0.00%
Petersburg	\$161,219,300.00	\$6,195,000.00	\$11,285,351.00	54.89%	3.84%
Sand Point	\$71,086,800.00	\$0.00	\$4,576,076.00	0.00%	0.00%
Skaqway	\$58,447,100.00	\$820,000.00	\$4,091,297.00	20.04%	1.40%
St. Mary's	\$4,239,400.00	\$0.00	\$296,758.00	0.00%	0.00%
Tanana	\$11,195,000.00	\$0.00	\$783,678.00	0.00%	0.00%
Unalakleet	\$19,714,500	\$0	\$1,380,015.00	0.00%	0.00%
Unalaska	\$105,309,400.00	\$3,299,000.00	\$7,371,658.00	44.75%	3.13%
Valdez	\$1,740,431,900.00	\$75,833,000.00	\$121,830,233.00	62.24%	4.36%
Whittier	\$19,419,200.00	\$0.00	\$1,359,344.00	0.00%	0.00%
Wrangell	\$111,757,000.00	\$10,750,000.00	\$7,822,990.00	137.42%	9.62%
Yakutat	\$17,679,400.00	\$235,200.00	\$1,237,558.00	19.01%	1.33%

TOTAL CITIES \$3,125,901,900.00 \$103,467,200.00 \$218,813,133.00 47.29% 3.31%

STATE \$48,915,237,900.00 \$816,100,000.00 \$3,424,066,653.00 23.83% 1.67%

Total Boroughs \$41,954,537,900.00 \$1,980,631,400.00 \$2,936,817,653.00 67.44% 4.72%

Amendment to
HB 293

Page 1, lines 23 - 25:

delete subsection 3 and relabel subsection 4 as
subsection 3

Page 5, after line 9: insert

Sec. 29.58.470. BONDS NOT STATE OBLIGATIONS. Bonds
issued by municipalities are not legal or moral
obligations of the state.

**SHEARSON
LEHMAN
BROTHERS**

Shearson Lehman Brothers Inc.
Foster & Marshall Inc.
The Robinson-Humphrey Company, Inc.

An American Express company



Credit Survey Of State General Obligation Debt

1985

ALASKA

Moody's: Aa

SLB: Mid AA
Trend: Stable

S & P: AA-

The State, which relies on oil taxes and royalties for close to 80% of its revenues, was hurt in 1984 as oil prices remained weak. Revenues in the General Fund decreased 2.2%, with expenditures also declining, at a rate of 11.9%. The General Fund balance fell, albeit modestly, to a level of \$2.09 billion. Every \$1 decrease in the price of a barrel of oil translates into a loss of revenues of approximately \$150 million, which has placed the State under a great deal of revenue pressure. Some oil analysts are currently projecting a price for oil below \$20 a barrel within the next few years. Oil and gas production taxes, the single largest revenue source, fell 6.8% in 1984.

With an economy dependent on oil and gas, revenue projections have been sharply reduced for the 1985 fiscal year. What the State has in its favor is a huge General Fund balance and the Alaska Permanent Fund, which currently has a principal balance of over \$6 billion. The Permanent Fund serves as a constitutionally established "savings account". Fifty percent of the income generated by the Permanent Fund is transferred to the General Fund. Debt ratios are extremely high, with State unemployment also on the high side. Alaska does, however, possess very high wealth levels and a rapidly expanding population base. While the situation in terms of oil related revenues is deteriorating at a fast pace, the ability to control expenses, large fund cushions, and as yet untapped tax sources (i.e. sales and personal income taxes) provide adequate security for the State's debt, although the situation bears watching.

Population (1983): 510,550
% change 1980-1984: +22.9%

Employment Distribution

Manufacturing:	6.7%
Wholesale and Retail Trade:	17.9%
Service Industries:	17.2%
Government:	32.2%

Unemployment (1984): 10.6%
5 year average: 9.96%

Wealth Statistics

Per capita income: \$17,194
% change 1980-1984: +32.2%
Families below poverty level: 8.6%

General Fund (G.F.) Balance

1981	\$ 2,187,100,000
1982	\$ 2,334,300,000
1983	\$ 2,154,700,000
1984	\$ 2,091,285,000

1984 G.F. Balance as % of G.F. revenues: 54.1%

Debt Ratios

	<u>Outstanding</u> (000,000)	<u>Per Capita</u>	<u>% of</u> <u>Personal Income</u>	<u>% of Full</u> <u>Market Value</u>
G.O. + Special Oblig.	1085.1	\$ 2,125	13.1%	2.7%

Original sponsor: Rules/Governor

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5 FOURTEENTH LEGISLATURE - SECOND SESSION

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15 raised to repay the debt are limited by the extent to which the state has
16 delegated taxing authority to the municipalities under art. X, sec. 2 of
17 the Alaska Constitution;

18 (2) the state has a strong interest in debt issuance by municipali-
19 ties because of the impact on state revenue as a result of municipal as-
20 sessment to repay debt and because of the effect on the marketability of
21 bonds issued by the state and its agencies, by public corporations of the
22 state, by other municipalities, and by the Alaska Municipal Bond Bank Au-
23 thority;

24 (3) bonds issued by municipalities are not legal obligations of the
25 state, nor are the bonds supported by the moral obligation of the state;
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8 The Municipal Financial Emergency Commission is established in the
9 Department of Community and Regional Affairs.

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11 community and regional affairs, the commissioner of revenue, and the
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13 designees to serve on the commission.

14 (c) The commissioner of community and regional affairs shall
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16 members.

17 (d) The commission may employ staff as is necessary to accom-
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23 (1) investigate the defaulting municipality's fiscal af-
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26 ity in developing a plan for satisfaction of the outstanding debt;

27 (2) direct a state agency holding money on behalf of or
28 payable to the defaulting municipality to pay the money either to the
29 commission for payment to creditors, or to the defaulting municipality

1 for disposition as required under an adopted plan;

2 (3) determine whether a proposed plan is fair and equitable
3 and within the ability of the defaulting municipality to meet, and, if
4 so, enter an order finding that it is fair, equitable, and within the
5 ability of the municipality to meet;

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28 before the due date;

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1 defaulted, or that continues to be subject to the jurisdiction of the
2 commission after the implementation of a plan under AS 29.47.510;

3 (5) "outstanding debt" means revenue anticipation notes,
4 bond anticipation notes, general obligation bonds, revenue bonds, or
5 refunding bonds issued under this chapter.

6 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).
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Original sponsor: Rules/Covernor

Cook ✓
4/5/86

*Committee
working copy for
last hearing*

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M. S. Working Draft II

Cook
4/4/86

Original sponsor: Rules/Governor

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29 Sec. 29.47.550. PENALTY. A municipal official, employee, or

1 agent who knowingly violates a provision of a plan developed under
2 AS 29.47.510 is guilty of a class C felony.

3 Sec. 29.47.560. BANKRUPTCY PETITION. Nothing in AS 29.47.500 -
4 29.47.590 limits or otherwise affects the authority of a municipality
5 to file a petition in bankruptcy under 11 U.S.C. 901 - 946.

6 Sec. 29.47.565. CONSTRUCTION. Nothing in AS 29.47.500 - 29.47.-
7 590 may be construed to create liability on the part of the state for
8 outstanding debts of a municipality. An action taken by the commis-
9 sion may not be construed as an assumption of liability or respon-
10 sibility by the state for outstanding debts of a municipality.

11 Sec. 29.47.590. DEFINITIONS. In AS 29.47.500 - 29.47.590

12 (1) "commission" means the Municipal Financial Emergency
13 Commission;

14 (2) "creditor" means a person who has standing to bring an
15 action for default on outstanding debt against the defaulting munici-
16 pality;

17 (3) "default" means the failure by a municipality to pay an
18 installment of principal or interest on its outstanding debt, on or
19 before the due date;

20 (4) "defaulting municipality" means a municipality that has
21 defaulted, or that continues to be subject to the jurisdiction of the
22 commission after the implementation of a plan under AS 29.47.510;

23 (5) "outstanding debt" means revenue anticipation notes,
24 bond anticipation notes, general obligation bonds, revenue bonds, or
25 refunding bonds issued under this chapter.

26 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
27 10.070(c).
28
29

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 2, 1986

The Honorable Peter Goll, Chairman
House Community and Regional
Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: HB 293, establishing a Municipal Financial
Emergency Commission, our file: 66-3-86-0405

Dear Representative Goll:

In response to your memorandum dated March 26, 1986, to Jonathan Rubini, Assistant Attorney General, I will answer the following questions regarding federal bankruptcy law.

(1) You have asked whether the Municipal Financial Emergency Commission under its broad authority of assisting and developing a plan under section 410 of the proposed legislation could force a municipality to file for bankruptcy. Generally, the United States Bankruptcy Code provides that a debtor, in this case a municipality, may file for protection under the Bankruptcy Code, or creditors, meeting certain jurisdictional requirements, of the debtor may place the debtor in an involuntary bankruptcy proceeding. There appears to be no provision in the Bankruptcy Code which would permit a state that was not the creditor of a municipality to force a municipality to file for protection under Chapter 9 of the United States Bankruptcy Code (Municipal Debt Adjustment).

As a practical matter, the reasonableness of the proposal for debt adjustment made by the Municipal Financial Emergency Commission will be the determining factor whether a municipality decides to file for bankruptcy, or whether the creditors of the municipality decide to file an involuntary petition for the municipality. 11 U.S.C. § 903 provides that "a proposal by the state or law by the state prescribing a method of composition of indebtedness" of a municipality "may not bind any creditor that does not consent to such composition." Consequently, the creditors of the municipality will be looking at any debt adjustment proposal by the Commission to determine whether they would receive more money under the Bankruptcy Code than they would by a proposal by the Commission. If the creditors would receive a better arrangement under the Bankruptcy

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

Code, they would be likely to ignore a proposal by the Commission. A similar analysis would probably be undertaken by the municipality. If the Commission proposes debt restructuring that is more onerous in its payments than what would be required under the Bankruptcy Code then the municipality would have an incentive to ignore a proposal by the Commission and file its own bankruptcy proceedings.

② You have asked whether the State of Alaska or the Commission would become an intervenor in bankruptcy proceedings by having convened a Municipal Financial Emergency Commission. There is no provision of the Bankruptcy Code or the Bankruptcy Rules that would require that the State of Alaska or the Commission become an intervenor in bankruptcy proceedings. The State of Alaska or the Commission could petition the court as a party in interest to participate in the proceedings, or if the State of Alaska or the Commission were a creditor of the municipality, then the right to participate in the bankruptcy proceeding would be a matter of course. The creation of the Commission does not improve or hinder the State's ability or responsibility to participate in a bankruptcy proceeding.

In summary, the provisions of House Bill 293 appear not to be in conflict, in general, with the United States Bankruptcy Code, 11 U.S.C. §§ 901 - 946 (Municipal Debt Adjustment). However, the effectiveness of the Commission set up in HB 293 will be determined by how the Commission adjusts the debt of the municipality and whether this debt adjustment is reasonable. State law cannot prevent either the creditor or the municipality from availing themselves of the remedies provided in the United States Bankruptcy Code.

Sincerely yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By:

John Travostino
John Travostino
Assistant Attorney General

JT: ihr

cc: Arthur H. Peterson
Jonathan B. Rubini

BILL SHEFFIELD, GOVERNOR

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POUCH K - STATE CAPITOL
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PHONE: (907) 465-3600

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 21, 1986

Honorable Peter Goll, Chairman
House C&RA Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: HB 293, establishing a Municipal Financial Emergency Commission
Our file: 66-3-86-0405

Dear Representative Goll:

By memorandum of March 18, 1986, you raised a series of questions relating to HB 293, a bill which proposes the establishment of a Municipal Financial Emergency Commission to assist municipalities in default on bonded indebtedness. Mr. Bob Berry of your staff requested a response to those inquiries before your Friday, March 21, 1986 committee hearing. In the limited time available, our response to your third and fourth questions are stated in preliminary form.

You first ask whether the powers of the proposed commission are consistent with the "home rule" principles set out in article X of the Alaska Constitution. We considered the issue at length in drafting this measure. As you know, the bill empowers the commission with broad supervisory responsibilities in the extraordinary event of municipal default. While we are aware of no court which has directly addressed the question of the extent to which a state agency may assume control of the financial affairs of a municipality in default, we believe the proposed powers are consistent with article X of the Alaska Constitution. See generally Johnson v. City of Fairbanks, 583 P.2d 181 (Alaska 1978); Jefferson v. State, 527 P.2d 37 (Alaska 1974). A significant factor in support of this conclusion, we believe, is that state fiscal intrusion is conditioned upon the extraordinary instance of municipal default -- an occurrence which, as noted in the proposed legislative findings, may harbor profound repercussions to the state and to other neighboring municipalities.

Honorable Peter Goll, Chairman
House C&RA Committee
Alaska State Legislature

March 21, 1986
Page #2
663-86-0405

You also ask, "Does the state incur obligation for municipal bonded indebtedness by adopting the active role set out in HB 293?" We believe the clear answer is that the state does not incur any such legal obligation. Whether the state elects to assist a municipality to meet any outstanding debt obligations will derive exclusively from policy considerations, not any legal obligations implicitly assumed through active debt management oversight.

The most difficult inquiry concerns whether proposed section 29.58.440 modifies Rule 62 of the Alaska Rules of Civil Procedure and Administration. As you know, article IV, section 15 of the Alaska Constitution commits to the Alaska Supreme Court rule-making authority for judicial proceedings, subject to legislative change by two-thirds vote of each body of the legislature. Amendment of a court rule by legislative enactment, however, will not be implied, and may be accomplished only where the enactment specifically states an intent to modify a court rule. Leege v. Martin, 379 P.2d 447 (Alaska 1963). Civil Rule 62 states, without reference to any time limitations, the courts' inherent authority to extend injunctive relief. To the extent that proposed section 29.58.440 is perceived as a procedural restriction of the court's authority under Civil Rule 62, we do not believe that the bill states the intent to modify a court rule with the requisite specificity to effectuate an amendment of established judicial procedures. In present form, therefore, a court would consider the legislative directive, but would not likely view itself as bound by the mandatory stay provision. If the committee elects to more specifically address this matter, we would be happy to provide further assistance.

You finally ask whether there is a conflict with federal bankruptcy law. Proposed section 29.58.450 expressly recognizes the authority of a municipality to file a petition in bankruptcy under 11 U.S.C. §§ 901 -- 946. Quite fortunately, Alaska has not as yet confronted the unique legal considerations which arise where a sovereign political subdivision files a petition in bankruptcy. Without addressing the respective procedures under federal bankruptcy law and HB 293, it is our understanding that federal bankruptcy courts have extended substantial deference to "work-out" procedures provided for under state law. Ultimately, of course, any irreconcilable procedural conflicts will be resolved in favor of the federal bankruptcy procedures.

If you require further review of the issues raised in

Honorable Peter Goll, Chairman
House C&RA Committee
Alaska State Legislature

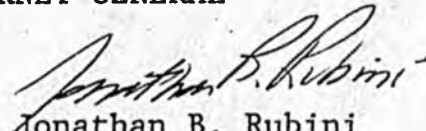
March 21, 1986
Page #3
663-86-0405

your March 18, 1986 memorandum, please contact me at your earliest convenience.

Sincerely yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By:


Jonathan B. Rubini
Assistant Attorney General

JBR/pjg

cc: Hon. Mary Nordale, Commissioner
Department of Revenue

Art Peterson, Asst. Attorney General
Legislation and Regulations Section
Department of Law - Juneau



Alaska State Legislature

House

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

March 26, 1986

TO: John Rubini
Alaska Department of Law

FROM: Bob Berr *BB*
Staff
House Community and Regional Affairs Committee

SUBJECT: House Bill 293

Bankruptcy:

Bob (Is there a conflict with the language of page 2, lines 19-21 (development of plan) and page 5, lines 4-6 (sec. 29.58... 450)?

1 *yo* (Sec. 450 states there is no limit or effect on a municipality regarding bankruptcy. Could the commission under its broad authority of assisting in developing a plan under Sec. 410 force a municipality to file for bankruptcy?

2 (Does the state or commission become an intevenor under HB 293?

Bob (Is the cite on page 5, line 6 (11 U.S.C. 901-946) subject to obsolescence or does it act as a limit? Should the cite be deleted, altered, or replaced with "under Federal law"?

Penalty

Is Sec. 29.58.460 too severe? Is a Class C felony for this offense in line with other non-violent, white-collar crime? Would "intentionally violates" be better than "knowingly violates"?

Representative Goll asks that you answer these questions or contact someone the Department of Law would deem an expert in bankruptcy law and put them in touch with Rep. Gruenberg as soon as possible. The next hearing for HB 293 will be Wednesday, April 3.

ljb

MG working draft
AA

Cook ✓
4/5/86

Original sponsor: Rules/Governor

1
2 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

3 CS FOR HOUSE BILL NO. 293 (C&RA)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - SECOND SESSION

6 A BILL

7 For an Act entitled: "An Act relating to municipal default on bonded in-
8 debtedness; establishing the Municipal Financial
9 Emergency Commission; and providing for an effective
10 date."

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

12 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that

13 (1) while the power of municipalities to contract debt for capital
14 improvements is granted by the Alaska Constitution, revenue that may be
15 raised to repay the debt are limited by the extent to which the state has
16 delegated taxing authority to the municipalities under art. X, sec. 2 of
17 the Alaska Constitution;

18 (2) the state has a strong interest in debt issuance by municipali-
19 ties because of the impact on state revenue as a result of municipal as-
20 sessment to repay debt and because of the effect on the marketability of
21 bonds issued by the state and its agencies, by public corporations of the
22 state, by other municipalities, and by the Alaska Municipal Bond Bank Au-
23 thority;

24 (3) bonds issued by municipalities are not legal obligations of the
25 state, nor are the bonds supported by the moral obligation of the state;
26 and

27 (4) it is in the public interest, and is declared to be a public
28 purpose, to promote the prosperity and general welfare of all the people of
29 the state by assisting in the development and implementation of refinancing

1 plans for municipalities that have defaulted on outstanding debt.

2 * Sec. 2. AS 29.10.200 is amended by adding a new paragraph to read:

3 (47) AS 29.47.500 - 29.47.590 (default on bonded indebted-
4 ness)

5 * Sec. 3. AS 29.47 is amended by adding new sections to read:

6 ARTICLE 7. DEFAULT ON BONDED INDEBTEDNESS.

7 Sec. 29.47.500. MUNICIPAL FINANCIAL EMERGENCY COMMISSION. (a)

8 The Municipal Financial Emergency Commission is established in the
9 Department of Community and Regional Affairs.

10 (b) The members of the commission consist of the commissioner of
11 community and regional affairs, the commissioner of revenue, and the
12 commissioner of administration. Members of the commission may appoint
13 designees to serve on the commission.

14 (c) The commissioner of community and regional affairs shall
15 chair the commission. A quorum of the commission consists of two
16 members.

17 (d) The commission may employ staff as is necessary to accom-
18 plish the purposes of the commission.

19 Sec. 29.47.510. DUTIES AND POWERS OF THE COMMISSION. (a) Upon
20 receipt of a written notice of a default by a municipality, as provid-
21 ed in AS 29.47.520, the commission may

22 (1) investigate the defaulting municipality's fiscal af-
23 fairs, consult with the governing bodies of the defaulting munici-
24 pality, and negotiate with creditors in order to assist the municipali-
25 ty in developing a plan for satisfaction of the outstanding debt;

26 (2) direct a state agency holding money on behalf of or
27 payable to the defaulting municipality to pay the money either to the
28 commission for payment to creditors, or to the defaulting municipality
29 for disposition as required under an adopted plan;

*Finance
may
include
bond
person*

1 (3) determine whether a proposed plan is fair and equitable
2 and within the ability of the defaulting municipality to meet, and, if
3 so, enter an order finding that it is fair, equitable, and within the
4 ability of the municipality to meet;

5 (4) advise the defaulting municipality to take the neces-
6 sary steps to implement the plan;

7 (5) order the defaulting municipality to take the necessary
8 steps to implement the plan if the municipality fails to implement the
9 plan within 30 days after receiving the advice of the commission to
10 implement the plan;

11 (6) require periodic reports on the defaulting municipali-
12 ty's financial affairs during the period in which the plan is imple-
13 mented;

14 (7) approve or reject the defaulting municipality's annual
15 budget ordinance during the period in which the plan is implemented;

16 (8) approve or reject the issuance of additional bonds,
17 notes, or other debt, whether short- or long-term, during the period
18 in which the plan is implemented;

19 (9) impound the books and records of a defaulting munic-
20 ipality and assume full control of its financial affairs, including the
21 levying of taxes, expenditure of money, and adoption of budgets, if
22 the municipality fails to implement a plan, or if, in the opinion of
23 the commission, the defaulting municipality will default on a future
24 debt service payment under the plan if the financial policies and
25 practices of the municipality are not improved; and

26 (10) order a defaulting municipality to pay for the cost of
27 developing and implementing a plan.

28 (b) The authority granted to the commission continues, with
29 respect to a defaulting municipality, until the commission is sat-

1 isfied that the defaulting municipality has performed or will perform
 2 the duties required of it in the plan, and until agreements made with
 3 the defaulting municipality's creditors have been performed in
 4 accordance with the plan.

5 (c) The commission may take all actions necessary to accomplish
 6 the purposes of AS 29.47.500 - 29.47.520, including issuing subpoenas
 7 necessary for the production of documents and issuing orders. A
 8 superior court may, upon application of the commission, compel obedi-
 9 ence with a subpoena or order issued by the commission.

10 Sec. 29.47.520. NOTICE OF DEFAULT. (a) A municipality shall
 11 give notice of default to the commissioner of community and regional
 12 affairs within 10 calendar days after actual knowledge of the default.

13 (b) A creditor may give notice to the commissioner of community
 14 and regional affairs any time after a default by a municipality.

15 (c) A municipality may request the assistance of the commission
 16 at any time before default if, in the judgment of the municipality,
 17 assistance from the commission will assist the municipality in reliev-
 18 ing financial distress.

19 Sec. 29.47.530. ACTION UPON RECEIVING NOTICE OF DEFAULT. The
 20 commissioner of community and regional affairs shall convene a meeting
 21 of the commission within 15 days after the receipt of a notice of de-
 22 fault, or of a request for assistance, under AS 29.47.520. The de-
 23 faulting municipality shall be given notice of the meeting, and shall
 24 send an authorized representative to the meeting to represent the
 25 defaulting municipality during the development of a plan under AS 29.-
 26 47.510.

27 Sec. 29.47.540. LIMITATION ON ACTIONS. If a notice of default
 28 or request for assistance has been provided by a municipality under
 29 AS 29.47.520, a creditor of the municipality may not file an action

*Does this
 amend
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1 based upon the outstanding debt until 90 days after the first meeting
2 of the commission convened under AS 29.47.530 to consider the matter.

3 Sec. 29.47.550. PENALTY. A municipal official, employee, or
4 agent who ^{intentionally} [knowingly] violates a provision of a plan developed under
5 AS 29.47.510 is [guilty of a class C felony] ^{subject to a civil penalty}
^{not to exceed 5000.}

6 Sec. 29.47.560. BANKRUPTCY PETITION. Nothing in AS 29.47.500 -
7 29.47.590 limits or otherwise affects the authority of a municipality
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11 obligations of the state.

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27 before the due date;

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29 defaulted, or that continues to be subject to the jurisdiction of the

1 commission after the implementation of a plan under AS 29.47.510;

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Cook
4/10/F

Original sponsor: Rules/Governor

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4 bond anticipation notes, general obligation bonds, revenue bonds, or
5 refunding bonds issued under this chapter.

6 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).

Max - Re: The appropriate Criminal Penalty, Class "C" Felony does seem to be out of line with the penalties imposed for similar white collar crimes (enclosed). § 2 of Official Misconduct (Page 3) fits the actions penalized in this bill almost to a tee & only carries a class A misdemeanor penalty. Other white collar crimes I found also generally carry lower penalties for similarly reprehensible conduct. (See enclosed) Mark

11.01.040. Application of AS 11.81.600 — 11.81.630. AS 11.81.600 — 11.81.630 apply only to this title. (§ 10 ch 166 SLA 1978)

NOTES TO DECISIONS

Stated in *Neitzel v. State*, Ct. App. Op. No. 172 (File No. 6243), 655 P.2d 325 (1982).

Article 6. Definitions.

Section

900. Definitions

Sec. 11.81.900. Definitions. (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

§ 11.81.900

(3) a person acts "reckless" if the person acts in a reckless state of mind, that is, the person is aware of and consciously disregards a substantial and unjustifiable risk that the person's conduct will cause the death of another person; the risk must be of such a nature and degree that it constitutes a gross deviation from the conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that conduct or circumstance;

(4) a person acts with "criminal negligence" if the person acts in a reckless state of mind or to a circumstance described by a provision of law defining an offense when the person fails to perceive that the result will occur or be of such a nature and degree that it constitutes a gross deviation from the conduct that a reasonable person would observe in the situation;

(b) In this title, unless otherwise provided, a provision of law defining an offense requires otherwise,

(1) "affirmative defense"

(A) some evidence must be introduced in support of the defense; and

(B) the defendant has the burden of proving the defense by a preponderance of the evidence;

(2) "benefit" means a pecuniary benefit or to a third party who is a beneficiary;

(3) "building", in addition to a structure, includes a motor-propelled vehicle or structure used for carrying on business units, including apartment units, including a separate unit is considered a separate building;

(4) "cannabis" has the same meaning as in AS 11.81.010, (11), and (14);

(5) "conduct" means an act or omission in this state;

(6) "controlled substance" has the same meaning as in AS 11.71.900(4);

(7) "correctional facility" means a facility used for the confinement of a person;

(8) "credit card" means a card, other name, issued with a credit cardholder in obtaining payment;

(9) "crime" means an offense which is authorized; a crime is

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

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

(1) "affirmative defense" means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the defendant has the burden of establishing the defense by a preponderance of the evidence;

(2) "benefit" means a present or future gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary;

(3) "building", in addition to its usual meaning, includes any propelled vehicle or structure adapted for overnight accommodation of persons or for carrying on business; when a building consists of separate units, including apartment units, offices, or rented rooms, each unit is considered a separate building;

(4) "cannabis" has the meaning ascribed to it in AS 11.71.900(10), (11), and (14);

(5) "conduct" means an act or omission and its accompanying mental state;

(6) "controlled substance" has the meaning ascribed to it in AS 11.71.900(4);

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

(8) "credit card" means any instrument or device, whether known as a credit card, credit plate, courtesy card, or identification card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining property or services on credit;

(9) "crime" means an offense for which a sentence of imprisonment is authorized; a crime is either a felony or a misdemeanor;

(2) the defendant was in fact a public servant different than the one the defendant pretended to be.

(c) This section does not apply to a peace officer acting within the scope and authority of the officer's employment.

(d) Impersonating a public servant is a class B misdemeanor. (§ 6 ch 166 SLA 1978)

Cross references. — For criminal impersonation, see AS 11.46.570.

NOTES TO DECISIONS

For case construing former statute concerning impersonating a peace officer, see *Larson v. State*, Sup. Ct. Op. No. 1430 (File No. 2433), 564 P.2d 365 (1977).

Collateral references. — Criminal responsibility of one aiding and abetting the offense of false personation, 5 ALR 784; 74 ALR 1110; 131 ALR 1322.

Intent as affecting offense of false personation, 97 ALR 1510.

Article 6. Abuse of Public Office.

Section

850. Official misconduct

860. Misuse of confidential information

Collateral references. — 63 Am. Jur. 2d, Public Officers and Employees. §§ 346-359.

67 C.J.S., Officers, §§ 120-126, 255-263. Infamous crime or one involving moral turpitude constituting disqualification to hold public office, 52 ALR2d 1314.

Official oppression, what constitutes offense of, 83 ALR2d 1007.

Personal liability of policeman, sheriff, or similar peace officer or his bond, for injury suffered as a result of failure to enforce law or arrest law breaker, 42 ALR3d 700.

Removal of public officer for misconduct during previous term, 42 ALR3d 691.

Validity and construction of statute authorizing grand jury to submit report concerning public servant's noncriminal misconduct, 63 ALR3d 586.

Sexual misconduct or irregularity as amounting to "conduct unbecoming an officer," justifying officer's demotion or removal or suspension from duty, 9 ALR4th 614.

Sec. 11.56.850. Official misconduct. (a) A public servant commits the crime of official misconduct if, with intent to obtain a benefit or to injure or deprive another person of a benefit, the public servant

(1) performs an act relating to the public servant's office but constituting an unauthorized exercise of the public servant's official functions, knowing that that act is unauthorized; or

Public

way, whether because that person had not assumed office, lacked jurisdiction, or for any other reason.

(c) Bribery is a class B felony. (§ 6 ch 166 SLA 1978)

Sec. 11.56.110. Receiving a bribe. (a) A public servant commits the crime of receiving a bribe if the public servant

(1) solicits a benefit with the intent that the public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant will be influenced; or

(2) accepts or agrees to accept a benefit upon an agreement or understanding that the public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant will be influenced.

(b) Receiving a bribe is a class B felony. (§ 6 ch 166 SLA 1978)

Sec. 11.56.120. Receiving unlawful gratuities. (a) A public servant commits the crime of receiving unlawful gratuities if, for having engaged in an official act which was required or authorized and for which the public servant was not entitled to any special or additional compensation, the public servant

(1) solicits a benefit, regardless of value; or

(2) accepts or agrees to accept a benefit having a value of \$50 or more.

(b) Receiving unlawful gratuities is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Sec. 11.56.130. Definition. In AS 11.56.100 — 11.56.130, "benefit" has the meaning ascribed to it in AS 11.81.900 but does not include

(1) political campaign contributions reported in accordance with AS 15.13;

(2) concurrence in official action in the cause of legitimate compromise between public servants; or

(3) support, including a vote, solicited by a public servant or offered by any person in an election. (§ 6 ch 166 SLA 1978)

Cross references. — For definition of terms used in this title, see AS 11.81.900.

Article 2. Perjury and Related Offense

Section	Section
200. Perjury	230. Perjury by inconsistent statements
210. Unsworn falsification	235. Retraction as a defense
220. Proof of guilt	240. Definitions

order to prove the crime of perjury, to establish that the matter concerning which willfully false testimony under oath was given was material to an issue before the court. *Beckley v. State*, Sup. Ct. Op. No. 490 (File No. 887), 443 P.2d 51 (1968); *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 546 P.2d 592 (1976).

Admissibility of illegally seized evidence. — Under the exception to the exclusionary rule for illegally seized evidence in criminal prosecutions in Evid. R. 412(2), illegally seized evidence may be used in perjury prosecutions, unless the police misconduct amounts to a flagrant or egregious invasion of personal rights. *Wortham v. State*, Sup. Ct. Op. No. 2697 (File No. 5459), 657 P.2d 856 (1983).

Given the absence of flagrant police misconduct in recording the conversation between defendant and the undercover police agent, pursuant to the provisions of Evid. R. 412(2), the transcript of the tape recording was admissible in the perjury prosecution of defendant. *Wortham v. State*, Sup. Ct. Op. No. 2697 (File No. 5459), 657 P.2d 856 (1983).

Quoted in *Boyles v. State*, Ct. App. Op. No. 103 (File No. 5667), 647 P.2d 1113 (1982).

Cited in *Hoover v. State*, Ct. App. Op. No. 73 (File No. 6223), 641 P.2d 1263 (1982).

Sec. 11.56.210. Unsworn falsification. (a) A person commits the crime of unsworn falsification if, with the intent to mislead a public servant in the performance of a duty, the person submits a false written or recorded statement which the person does not believe to be true

- (1) in an application for a benefit; or
- (2) on a form bearing notice, authorized by law, that false statements made in it are punishable.

(b) Unsworn falsification is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Sec. 11.56.220. Proof of guilt. In a prosecution for perjury or unsworn falsification it is not necessary that proof be made by a particular number of witnesses or by documentary or other type of evidence. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Editor's notes. — The case cited in the notes below was decided under former AS 11.30.010.

Required proof. — To be guilty of perjury, it was necessary under former law to prove that a person under oath willfully and falsely swore. *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 546 P.2d 592 (1976).

One could not be convicted of perjury on the uncorroborated testimony of one witness under former law. *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 546 P.2d 592 (1976).

Testimony of perjury had to be corroborated by other evidence, either direct or circumstantial. *Nelson v. State*,

Sup. Ct. Op. No. 1237 (File No. 2459), 546 P.2d 592 (1976).

The purpose of such a rule was to prevent ill-founded retaliatory attacks by perjury prosecution upon a witness based on no more than the contrary oath of another. *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 546 P.2d 592 (1976).

What was corroborative evidence. — In order to be corroborative, evidence had to induce a rational belief that what the witness said was true. *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 546 P.2d 592 (1976).

Sufficiency of evidence. — See *Nelson v. State*, Sup. Ct. Op. No. 1237 (File No. 2459), 546 P.2d 592 (1976).

What constitutes obstructing or resisting an officer, in the absence of actual force, 44 ALR3d 1018.

Sec. 11.56.705. Harming a police dog in the first degree. (a) A person commits the crime of harming a police dog in the first degree if the person intentionally kills or causes serious physical injury to a police dog, knowing the dog to be a police dog.

(b) Harming a police dog in the first degree is a class C felony. (§ 1 ch 54 SLA 1983)

Sec. 11.56.710. Harming a police dog in the second degree. (a) A person commits the crime of harming a police dog in the second degree if the person intentionally causes physical injury to, without causing physical injury to, torments, kicks, strikes, stones, or tampers with a police dog, knowing the dog to be a police dog.

(b) Harming a police dog in the second degree is a class A misdemeanor. (§ 1 ch 54 SLA 1983)

Sec. 11.56.715. Defense to harming a police dog. It is a defense to a prosecution under AS 11.56.705 or AS 11.56.710 that the conduct of the defendant

- (1) conformed to accepted veterinary practice; or
- (2) was in response to a direct attack on the defendant by a police dog not acting under the control of a peace officer. (§ 1 ch 54 SLA 1983)

Sec. 11.56.720. Refusing to assist a peace officer or judicial officer. (a) A person commits the offense of refusing to assist a peace officer or judicial officer if, upon a request, command, or order by someone the person knows to be a peace officer or judicial officer, that person unreasonably fails to make a good faith effort to physically assist the officer in the exercise of official duties.

(b) A person who, without expecting compensation, assists a person in accordance with this section is not liable for civil damages as a result of an act or omission in rendering that assistance. This subsection does not preclude liability for civil damages as a result of reckless, wilful, wanton, or intentional misconduct.

(c) Refusing to assist a peace officer or judicial officer is a violation. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

For case construing former AS 11.30.200, concerning neglect or refusal to aid an officer, see *Larson v. State*, Sup. Ct. Op. No. 1430 (File No. 2433), 564 P.2d 365 (1977).

or provide property or the advertised property

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disclosure in labeling used commercial usage;

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to action by Federal Trade 65 ALR2d 225. class actions based on fraud entation, 53 ALR3d 534. private action under state con- lon act, 62 ALR3d 169. exemptions of state deceptive - and consumer protection d 399.

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(2) the person destroys, removes, conceals, encumbers, transfers, or otherwise deals with the person's property with intent to defraud an existing judgment creditor; or

(3) knowing that proceedings have been or are about to be instituted for the appointment of an administrator or that a composition agreement or other arrangement for the benefit of creditors has been made or is about to be made, the person, with intent to defraud any creditor,

(A) destroys, removes, conceals, encumbers, transfers, or otherwise disposes of any part of or interest in the debtor's estate;

(B) obtains a substantial part of or interest in the debtor's estate;

(C) presents to any creditor or to the administrator a writing or record relating to the debtor's estate knowing that it contains a false statement; or

(D) misrepresents or fails to disclose to the administrator the existence, amount, or location of any part of or interest in the debtor's estate or any information which that person is legally required to furnish to the administrator.

(b) As used in this section, "administrator" means an assignee or trustee for the benefit of creditors, a liquidator, a receiver, or any other person entitled to administer property for the benefit of creditors.

(c) Defrauding creditors is a class A misdemeanor unless that secured party, judgment creditor, or creditor incurs a pecuniary loss of \$500 or more as a result to the defendant's conduct, in which case defrauding secured creditors is

(1) a class B felony if the loss is \$25,000 or more;

(2) a class C felony if the loss is \$500 or more but less than \$25,000.

(§ 4 ch 166 SLA 1978)

Collateral references. — Rule denying recovery of property to one who conveyed to defraud creditors as applicable where the claim which motivated the conveyance was never established, 6 ALR4th 862.

Right of creditor to recover damages for conspiracy to defraud him of claim, 11 ALR4th 345.

Article 6. General Provisions.

Section	Section
980. Determination of value; aggregation of amounts	985. Deceiving a machine
	990. Definitions

Sec. 11.46.980. Determination of value; aggregation of amounts. (a) In this chapter, whenever it is necessary to determine the value of property, that value is the market value of the property at the time and place of the crime unless otherwise specified or, if the market value cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.

(2) "false statement" means an offer to sell or provide property or services made with intent not to sell or provide the advertised property or services

(A) at the price or of the quality advertised;

(B) in a quantity sufficient to meet the reasonably expected public demand unless quantity is specifically stated in the advertisement; or

(C) at all;

(3) "mislabeled" means

(A) varying from the standard of truth or disclosure in labeling prescribed by law or, if none, as set by established commercial usage; or

(B) represented as being another person's product, though otherwise labeled accurately as to quality and quantity.

(c) Deceptive business practices is a class A misdemeanor. (§ 4 ch 166 SLA 1978)

Collateral references. — False representations in business transaction as within statute relating to "confidence game," 9 ALR 1527; 56 ALR 727.

Validity, construction, and application of statutes or ordinances directed against false or fraudulent statements in advertisements, 89 ALR 1004.

What constitutes false, misleading, or deceptive advertising or promotional prac-

tices subject to action by Federal Trade Commission, 65 ALR2d 225.

Consumer class actions based on fraud or misrepresentation, 53 ALR3d 534.

Right to private action under state consumer protection act, 62 ALR3d 169.

Scope and exemptions of state deceptive trade practice and consumer protection acts, 89 ALR3d 399.

Sec. 11.46.720. Misrepresentation of use of a propelled vehicle. (a) A person commits the crime of misrepresentation of use of a propelled vehicle if, with intent to deceive any person, the person sells, leases, or offers or exposes for sale or lease a propelled vehicle knowing that a usage registering device on the vehicle has been disconnected, adjusted, or replaced so as to misrepresent the distance traveled by the vehicle or the hours of engine use.

(b) As used in this section, "usage registering device" means any odometer, speedometer, recording tachometer, hobbsmeter, or other instrument that registers the distance traveled by the vehicle or the hours of engine use.

(c) Misrepresentation of use of a propelled vehicle is a class A misdemeanor. (§ 4 ch 166 SLA 1978)

Sec. 11.46.730. Defrauding creditors. (a) A person commits the crime of defrauding creditors if

(1) knowing that property is subject to a security interest, the person

(A) with intent to defraud, fails to disclose that security interest to a buyer of that property; or

(B) destroys, removes, conceals, encumbers, transfers, or otherwise deals with that property with intent to hinder enforcement of that security interest;

BILL SHEFFIELD, GOVERNOR

REPLY TO:

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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March 21, 1986

Honorable Peter Goll, Chairman
House C&RA Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: HB 293, establishing a Municipal
Financial Emergency Commission
Our file: 66-3-86-0405

Dear Representative Goll:

By memorandum of March 18, 1986, you raised a series of questions relating to HB 293, a bill which proposes the establishment of a Municipal Financial Emergency Commission to assist municipalities in default on bonded indebtedness. Mr. Bob Berry of your staff requested a response to those inquiries before your Friday, March 21, 1986 committee hearing. In the limited time available, our response to your third and fourth questions are stated in preliminary form.

You first ask whether the powers of the proposed commission are consistent with the "home rule" principles set out in article X of the Alaska Constitution. We considered the issue at length in drafting this measure. As you know, the bill empowers the commission with broad supervisory responsibilities in the extraordinary event of municipal default. While we are aware of no court which has directly addressed the question of the extent to which a state agency may assume control of the financial affairs of a municipality in default, we believe the proposed powers are consistent with article X of the Alaska Constitution. See generally Johnson v. City of Fairbanks, 583 P.2d 181 (Alaska 1978); Jefferson v. State, 527 P.2d 37 (Alaska 1974). A significant factor in support of this conclusion, we believe, is that state fiscal intrusion is conditioned upon the extraordinary instance of municipal default -- an occurrence which, as noted in the proposed legislative findings, may harbor profound repercussions to the state and to other neighboring municipalities.

The state becomes
a receiver of
the municipality
to prevent
ownership.

Issue: Liability
of a receiver

Honorable Peter Goll, Chairman
House C&RA Committee
Alaska State Legislature

March 21, 1986
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663-86-0405

You also ask, "Does the state incur obligation for municipal bonded indebtedness by adopting the active role set out in HB 293?" We believe the clear answer is that the state does not incur any such legal obligation. Whether the state elects to assist a municipality to meet any outstanding debt obligations will derive exclusively from policy considerations, not any legal obligations implicitly assumed through active debt management oversight.

The most difficult inquiry concerns whether proposed section 29.58.440 modifies Rule 62 of the Alaska Rules of Civil Procedure and Administration. As you know, article IV, section 15 of the Alaska Constitution commits to the Alaska Supreme Court rule-making authority for judicial proceedings, subject to legislative change by two-thirds vote of each body of the legislature. Amendment of a court rule by legislative enactment, however, will not be implied, and may be accomplished only where the enactment specifically states an intent to modify a court rule. Leege v. Martin, 379 P.2d 447 (Alaska 1963). Civil Rule 62 states, without reference to any time limitations, the courts' inherent authority to extend injunctive relief. To the extent that proposed section 29.58.440 is perceived as a procedural restriction of the court's authority under Civil Rule 62, we do not believe that the bill states the intent to modify a court rule with the requisite specificity to effectuate an amendment of established judicial procedures. In present form, therefore, a court would consider the legislative directive, but would not likely view itself as bound by the mandatory stay provision. If the committee elects to more specifically address this matter, we would be happy to provide further assistance.

You finally ask whether there is a conflict with federal bankruptcy law. Proposed section 29.58.450 expressly recognizes the authority of a municipality to file a petition in bankruptcy under 11 U.S.C. §§ 901 -- 946. Quite fortunately, Alaska has not as yet confronted the unique legal considerations which arise where a sovereign political subdivision files a petition in bankruptcy. Without addressing the respective procedures under federal bankruptcy law and HB 293, it is our understanding that federal bankruptcy courts have extended substantial deference to "work-out" procedures provided for under state law. Ultimately, of course, any irreconcilable procedural conflicts will be resolved in favor of the federal bankruptcy procedures.

If you require further review of the issues raised in

Honorable Peter Goll, Chairman
House C&RA Committee
Alaska State Legislature

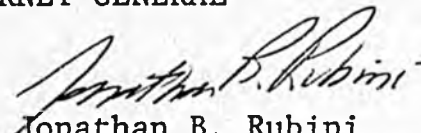
March 21, 1986
Page #3
663-86-0405

your March 18, 1986 memorandum, please contact me at your earliest convenience.

Sincerely yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By:


Jonathan B. Rubini
Assistant Attorney General

JBR/pjg

cc: Hon. Mary Nordale, Commissioner
Department of Revenue

Art Peterson, Asst. Attorney General
Legislation and Regulations Section
Department of Law - Juneau

3/21
adopted
unanimously

#1

Amendment to
HB 293

Page 1, lines 23 - 25:

delete subsection 3 and relabel subsection 4 as
subsection 3

Page 5, after line 9: insert

Sec. 29.58.470. BONDS NOT STATE OBLIGATIONS. Bonds
issued by municipalities are not legal or moral
obligations of the state.

OIL PRICE DECLINE

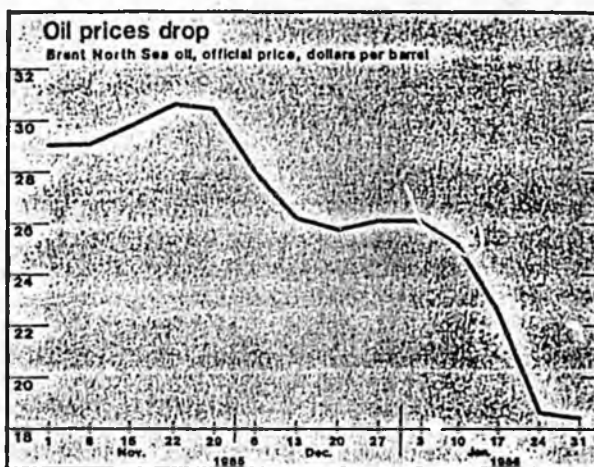
CreditReview

Winners and losers

The unexpected timing and magnitude of the recent oil price plunge to near \$15 a barrel indicates that future prices will settle at levels lower than earlier projected. This scenario has negative implications for certain oil producers' debt ratings and positive implications for oil consumers' ratings. Analyses of individual credits within those broad categories reveals the following:

- Financially strong oil companies, both in the U.S. and abroad, will emerge from the price wars without deep scars.
- Some poorly capitalized oil producers may declare bankruptcy or sell off assets. Oil service companies' five-year struggle will be prolonged. Ratings of 13 oil-related companies are placed on CreditWatch with negative implications (see pages 7-10).
- Transportation companies' fuel costs are being pared. This could have a backlash effect on airlines. Lower oil prices reduce the need to retire older airplanes, generating excess capacity and unstable pricing in future years.
- Electric utilities that burn oil will benefit. However, since natural gas or coal is still more economical, benefits will be limited.
- State and local governments in oil-dominated areas face short-term fiscal pressures and long-term revenue shortfalls as hard-hit oil producers pay less taxes and cut employment. Canvassing the regions, Alaska has the fewest worries, Oklahoma has the most.
- Municipalities face reduced water and sewer revenues as oil-dependent industries reduce utilities' purchases.

- Loan losses at regional banks in Texas, Oklahoma, and Louisiana rise. Money center banks' exposures to oil-producing debtor nations threaten earnings quality and stability.
- Among the oil-producing nations, some major



debtors, especially Mexico, are vulnerable. United Kingdom and Norway will also suffer, but have stronger fundamental positions.

— Oil-consuming nations, both industrial and developing, will be better off as import bills are reduced. This frees up resources, boosts trade, and enhances long-term growth worldwide.

The following sector-by-sector analyses discuss the far-reaching effects that the oil price situation has on a broad array of credits.

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Winners and losers	Cover	Rated non-U.S. governments face adjustments.....	5
Oil industry's near-term outlook	2	Companies outside of North America stable	6
Transportation's costs trimmed	3		
State and local government pressures	3	CreditWatch	
Limited impact for municipal utilities	4	\$7 billion of oil-related debt involving	
Regional banks vulnerable	4	13 companies on CreditWatch	7-10
Debtor nations' costs and benefits	5		

Oil industry's near-term outlook

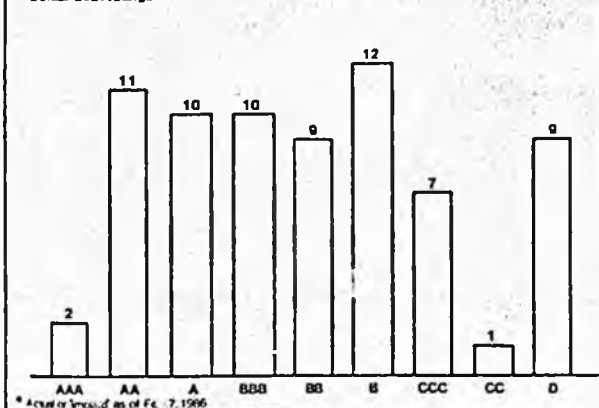
Most directly impacted is the oil industry. Because of the expected sustained period of weak oil prices, S&P is adding 13 companies to CreditWatch with negative implications (see pages 7-10). They are characterized by aggressively leveraged structures, uncertain cash flow prospects, or both.

Near-term outlook is bleak. With continued weak demand, overproduction by the Organization of Petroleum Exporting Countries (OPEC) and the rise of netback pricing, much of the market's discipline is gone. Over the longer term, lower oil prices will translate into diminished supplies, somewhat quicker pickup in demand, and renewed dependence on higher-risk foreign sources. Ultimately, supply overhangs will disappear and prices will rise relatively rapidly.

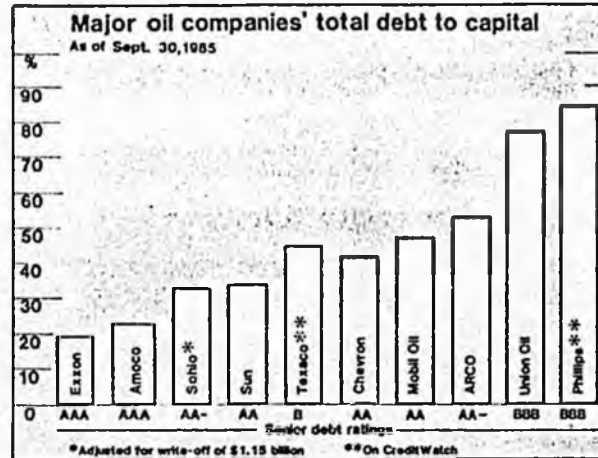
Major oil companies that have conserved financial strength, notably Exxon Corp. and Amoco Corp., should be able to ride out this difficult period. These companies have been successful explorers and enjoy relatively low-cost reserves. In fact, they may be able to capitalize on the travails of sister companies that may seek to raise cash with asset sales. Others, while not enjoying the same financial strength, are notable for their strong levels of cash flow. Reported earnings may drop substantially due to weaker oil prices. But cash flow will be much less affected due, in part, to the capital-intensive nature of the industry and the tax environment in which it operates.

Oil companies' ratings profile

Senior debt ratings*



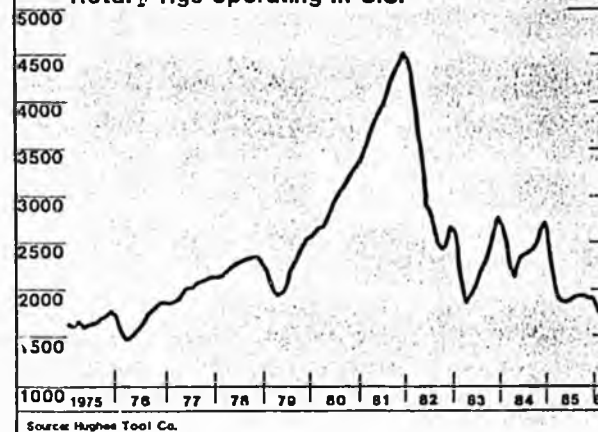
Companies that have undergone major restructuring programs in recent years, either through recapitalizations or major purchases, would appear to be extremely vulnerable to the price drop. However, many of them also have been aggressively reducing their debt with asset sales and other programs that conserve and raise cash. S&P has been analyzing companies' exposure to low prices for well over a year and has been incorporating these evaluations into ratings. Many companies still have some flexibility to respond to the falling prices. Com-



panies with refining and marketing operations may benefit as crude costs drop quicker than product prices, leading to continued strength in margins. However, netback pricing deals will mean that some of this potential benefit will not be realized by the companies. In addition, these companies are not immune to market developments.

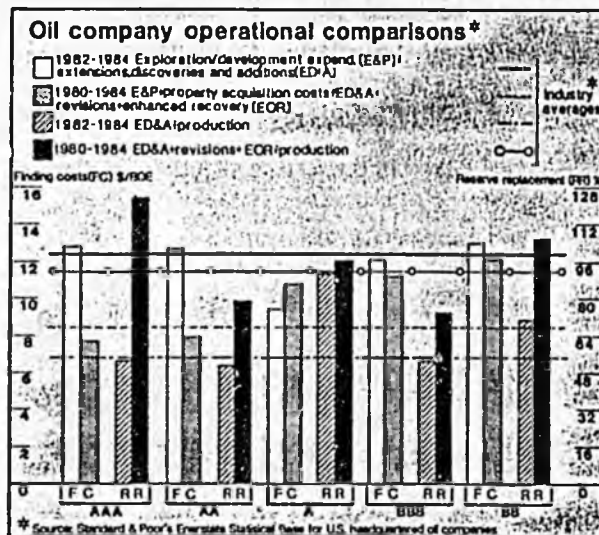
Lower prices will probably be felt first by poorly capitalized oil and gas companies that have been hoping for a turnaround in prices. Clearly, this will not occur, and more bankruptcies, liquidations, and asset sales can be expected. Companies that were relatively unsuccessful explorers will experience the same fate. Ratings for many of these were downgraded over the last few years, but further reductions are probable.

Rotary rigs operating in U.S.



U.S. oil industry ratings actions

	First quarter		Second quarter		Third quarter		Fourth quarter		Total	
	Down	Up	Down	Up	Down	Up	Down	Up	Down	Up
1986	4	0	—	—	—	—	—	—	—	—
1985	4	1	6	1	4	0	3	1	17	3
1984	3	2	10	3	1	0	1	2	14	8
1983	7	1	3	0	2	0	6	2	18	3
1982	4	0	0	0	3	0	8	1	15	1



The first prominent casualty of the January price drop was Global Marine Inc., which filed a Chapter 11 bankruptcy petition on Jan. 27. This major offshore drilling contractor aggressively expanded its fleet in the early 1980s in the expectation of a quick turnaround. *Oil service companies* are entering the fifth year of weak activity. While many of them have downsized and taken other steps to cope, they are vulnerable to the sustained cutbacks in oil companies' drilling and exploration expenditures. Although oil service companies' ratings have gone through several rounds of reductions, further action cannot be precluded.

Jacob L. Schlanger
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Transportation's costs trimmed

Declining oil prices will immediately improve *airline* operating profits, partially offsetting the recent deterioration caused by fare competition. As a percent of airline operating costs, fuel peaked at 27%-28% in 1981 before starting its retreat to the current 20% area. If oil prices continue to drop, S&P expects a further decline in this percentage. Over the long run, however, cheaper oil could have an adverse effect because it creates the potential for excess capacity. When fuel was \$1.25 a gallon, most airlines considered retiring Boeing 727 aircraft. Now that the commodity is at \$0.75 or lower, there is less pressure to retire such planes. The resulting excess capacity will spawn an unstable price environment as new aircraft deliveries add to, rather than replace, current capacity.

In the *railroad industry*, the effect of fuel price decreases will be less noticeable. Certain types of traffic, bulk commodities in particular, could benefit from lower costs. Carriers that are more competitive with truckers may be less affected because rates are likely to change more quickly. It is unlikely that a drop in prices will have a meaningful affect on locomotive supplies, because for the past several years the industry has had excess capacity due to better utilization.

T.S. Hyland
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State and local government pressures

Dramatic declines in spot market prices pose questions pertaining to the creditworthiness of oil-based state and municipal entities, as well as revenue-supported municipal utilities' projects. Credit implications extend not only to immediate fiscal pressures, but also to long-term revenue raising capabilities and some serious economic effects.

State and local governments in such oil-dominated areas as Texas, Louisiana, Oklahoma, New Mexico, and Alaska may experience fiscal and economic pressures. In *Texas*, a \$1 drop in the price of a barrel of oil is estimated to equal \$100 million of the state's annual revenues, or approximately 6.1% of 1985's total revenues. Total personal income could decline by 1%-2%, with about 25,000 jobs at stake. Hardest hit over the long term would be local government units, especially school districts, that derive a significant portion of revenues from ad valorem taxes on large oil reserves and/or from companies and facilities that are in the minerals extraction business. Similarly affected would be localities that depend upon oil service and support companies that provide ad valorem tax payments and support employment and personal income levels.

Many of the same implications hold for *Louisiana* and its local entities. A \$1 decline per barrel of oil causes annual state severance tax revenues to decline by approximately \$23 million, oil royalty revenues to drop by \$5 million, and corporate and in-

dividual income taxes to fall by \$27 million. The mineral resource and severance tax revenues alone represent about 22% of general fund revenues.

In *Alaska*, where state severance taxes amount to 43% of total unrestricted revenues and total petroleum revenues amount to 86% of revenues, the state treasury stands to lose \$150 million per year for each \$1 per-barrel drop. However, the state's revenue forecasts are already based on very low per-barrel wellhead prices of \$13.78 for fiscal 1987 and \$12.46 for fiscal 1988. In *North Slope Borough*, where 58% of revenues are derived from ad valorem taxes levied on oil-related properties, the immediate- and long-term effects appear negligible. The overwhelming majority of these revenues are derived from taxes on real property of mineral extraction companies and not on oil reserve values, per-barrel price, or production volume. A recent borough-sponsored study suggests that even at an average world price of \$15 per barrel, all the borough's processes, services, and activities would continue at scheduled levels.

The effects may be the most severe in *Oklahoma*. Approximately 25% of state revenues are derived from taxes on the oil and gas industry. The state's oil industry is dominated by small independent producers working marginally profitable and productive wells. Severe price declines may force many producers

(continued on next page)

Briefing Materials

Debt Management Plan

February, 1986

State of Alaska
Office of the Governor

February 1986

DEBT MANAGEMENT PLAN

Governor Bill Sheffield

Through careful management, the State of Alaska has maintained the best credit rating we've ever had. That AA rating, in turn, has allowed local governments across Alaska to keep their investment grade ratings as well. This good credit rating translates into lower property taxes for Alaskans.

With dropping world oil prices, however, Alaska's annual debt payments automatically become a larger part of our expenses.

So, I have asked the 14th Alaska Legislature to approve a package of new laws which, viewed as a whole, will give our young state a plan for comprehensive debt management for the first time. None of these proposed improvements in our laws is flashy or exciting, but as a package they are vital to the continued financial health of Alaska. I encourage you to read the enclosed information.

In short, the debt management plan I have placed before the Alaska Legislature will keep the commitments voters have made to our future, particularly in regards to local school construction. The plan also will guarantee we can continue to incur a reasonable amount of debt for school construction and other improvements in the future, while we preserve our good credit rating.

Debt Management Plan

"We've borrowed a considerable amount of money to help build Alaska. We can manage that debt, but it takes planning...lest that debt manage us in the future."

Governor Bill Sheffield

January 14, 1986

DEBT MANAGEMENT PLAN

An Overview

Without firm control of public debt the credit rating of all debt issuers in Alaska could be in jeopardy. Right now the State has an AA rating, the highest it's ever had, and all issuers within the State are rated as investment grade. But as oil prices decline, the share of revenues devoted to debt service will become an increasingly heavier burden. The State of Alaska cannot control the price of oil. What we can and must control is the amount of public debt.

Proper stewardship of public debt in Alaska can be accomplished through enactment of legislation covering four distinct needs. Taken separately, each of the four bills brings reasonableness to a different aspect of public debt. But viewed as a whole, this legislation provides a plan for comprehensive debt management for the first time. It assures that all State-supported debt, which is any debt paid from the State general fund, is subject to the control of the State Bond Committee. It is this total of State supported debt which the rating agencies look to in establishing the State's credit rating.

The first bill, House Bill 293, provides for orderly financial management in the event of a default by a municipality of its debt obligations. This legislation protects both issuers of public debt in Alaska and creditors.

House Bill 519 provides for the lease financing of public buildings through the Alaska State Housing Authority, acting as

the Alaska State Building Authority. The bill gives the State Bond Committee control over issuance of this debt as well as debt of the University of Alaska.

House Bill 520 gives the State Bond Committee control over the total amount and maturity of municipal school debt to be reimbursed by the State. The investment community needs to see some control on this fast-growing part of State supported debt.

The fourth bill, House Bill 521 places a limit on the issuance of general obligation debt by municipalities. Even with this limit some municipalities in Alaska will have some of the highest debt ratios in the United States. This legislation does not limit the ability to issue revenue bonds.

As background, Alaska's combined debt (State, municipal and school district) through the issuance of general obligation bonds was \$2.9 billion as of June 30, 1985. That amounts to about \$5,500 per Alaskan. When the amount of G.O. Bond debt for veterans' housing is included in the total, Alaska's per capita debt load is \$7,000.

That debt is manageable, but it takes planning. The State of Alaska has not had a bond authorization since 1980. Yet, the per capita interest on the State's general obligation bond debt is 20 times the national average. State policy limits debt service to five percent of unrestricted revenues, but that ratio is about 10 percent now and could climb to 16 percent by fiscal year 1989.

Again, this is a result of a combination of factors. World oil markets have seriously eroded the revenue Alaska receives from oil and gas production. At the same time, Alaska voters have authorized new debts, including \$325.0 million in school construction bonds so far in fiscal year 1985 alone. That translates into a possible 30 percent increase in State

reimbursement for local school debt--added costs which show up in the State operating budget.

These and other construction commitments are viewed by the nation's financial markets in different ways. On one hand, Alaska's rating agencies know this is a unique state, with enormous potential for generating public revenues and a young, dynamic workforce; on the other hand, the rating agencies look at all of Alaska's debt together, and while they are concerned about how much we borrow, they are more concerned that Alaska have controls on the growth of debt statewide.

To tackle that issue, Governor Sheffield is asking the Legislature to take the following initiatives:

- ° For school construction, honor all existing debt (as of March 31, 1986) under the current 80 percent reimbursement law, and limit the growth of future State reimbursement to \$10 million per year for school construction in the future.
- ° Set standards for school construction to guarantee more schools can be built with the funds available.
- ° Reimburse 100 percent of principal only for bonds authorized after April 1, 1986. This will encourage local districts to shop for the lowest interest rates.
- ° For local governments, limit debt to seven percent of assessed property values.
- ° Designate the Alaska State Housing Authority, acting as the Alaska State Building Authority, as the issuer of lease revenue bonds to finance public buildings. This

change was recommended by a citizens task force appointed by the Governor to study the issue in 1985.

- Designate the State Bond Committee as overseer of lease revenue bond issues and the total of State reimbursement for school debt (after March 31, 1986).

DEBT MANAGEMENT PLAN

Questions and Answers

QUESTION: Why do we need a debt management package?

ANSWER: The State has achieved a AA rating for its general obligation debt. However, the burden of paying the State's debt becomes heavier as revenues shrink. Now, with oil prices falling, the State must demonstrate to the rating agencies that it has the procedures, checks, and balances necessary to manage its debt obligations, if the State is to retain its high credit rating.

QUESTION: Why does the State have to be concerned about lease-purchase financing, University of Alaska, and municipal school debt? (HE 519, HB 520)

ANSWER: All or a major portion of the payments on this debt come from the State's general fund. These types of debt obligations are referred to as State supported debt. The total of State supported debt and State general obligation debt is the figure that Moody's and Standard and Poor's uses as the measure of the State's debt burden. As of June 30, 1985, this total was \$1,610.3 million, of which less than half, \$752.7 million, was State general obligation debt. Even the State's share of school debt alone, \$753.6 million, exceeded State general obligation debt.

QUESTION: Why should the State seek to limit municipal debt generally? (HB 521)

ANSWER: Because of high levels of State support to municipalities, they may be tempted to issue more debt than they could reasonably expect tax payers to support without the State aid. With State revenues declining, State support for municipalities eventually may suffer budget cuts along with other programs. The State needs to insure that such developments do not create avoidable financial difficulties for municipalities.

QUESTION: Is one reason for the State's concern with municipal debt levels that municipal credit ratings affect the State's ratings? (HB 521)

ANSWER: No. The State's rating is not affected by the rating of any or all municipalities. Even a municipal financial emergency or default would not ordinarily affect the State's rating. However, an emergency or default would be likely to tarnish all Alaska issuers somewhat, much as the New York City default affected all municipal debt issuers and the WPPSS (Whoops) default affected Northwestern U.S. and public power supply issues. This could significantly raise, for some period of time, the interest rates the State and other municipalities have to pay on bonds.

QUESTION: Is the WPPSS (Whoops) syndrome the reason for the introduction of the Municipal Financial Emergency Commission legislation? (HB 293)

ANSWER: It's one reason. However, a more important reason is to establish a mechanism that ensures satisfactory and early resolution of a municipal financial crisis so that provision of public services is impeded. Unlike nuclear power plants, municipalities cannot be mothballed. A mechanism for

satisfactory and early resolution also provides a valuable assurance to bond buyers.

QUESTION: What is the State's debt capacity and how is it determined?

ANSWER: In recent years, the State's debt policy has been that the State had capacity to issue additional general obligation debt if the debt service on the new bonds, combined with the debt service on outstanding bonds, would not exceed 5 percent of the State's unrestricted revenues. 5 percent is a level which few states with a AA credit rating exceed.

QUESTION: What is the current level of debt service relative to unrestricted revenues?

ANSWER: Considering only State general obligation bonds, the level for fiscal year 1987 is 5.7%. However, inclusion of all State supported debt which the rating agencies look at boosts the percentage to 11.5%. Falling State revenues will push the debt service to a level of 16.4% of revenues in fiscal year 1989.

QUESTION: Does this mean the State can't issue any more debt in the near future?

ANSWER: No. In the first place, the State could issue additional debt if it were willing to sacrifice its credit rating and that of State agencies and municipalities, whose ratings generally are tied to the State's. More to the point, additional issuance in modest amounts with a AA rating might be possible if the rating agencies were assured total debt obligations will remain limited. The limits and controls in Governor Sheffield's debt management package are an essential step in providing these assurances.

QUESTION: What happens to the State's reimbursement of municipal school debt that was authorized last fall? (HB 520)

ANSWER: That debt and all municipal school debt authorized before April 1, 1986, will be grandfathered under current law. This means State reimbursement for that debt will be under the current formula of 80% of principal and interest.

QUESTION: Does the Governor's budget contain the funds necessary for the State to reimburse the grandfathered bonds? (HB 520)

ANSWER: The amount required is contained in the Department of Education's fiscal note for HB 520. The estimated amount required for fiscal year 1987 is \$43 million. The Governor plans to support the \$43 million appropriation if the legislation is passed.

QUESTION: How much additional school debt could be reimbursed by the State under HB 520?

ANSWER: HB 520 would permit State reimbursement of \$10 million per year for debt authorized after March 31, 1986. Since the legislation establishes reimbursement at 100% of principal and requires the debt to have a 10 year term and constant principal payments, the \$10 million State reimbursement could support as much as \$100 million initially.

QUESTION: How does 100% of principal compare to 80% of principal and interest? (HB 520)

ANSWER: It depends on how much the interest is in relation to principal, which depends on the interest rates at the time the bonds are sold. At current interest rates, 100% of principal is approximately 89% of the current formula for reimbursement (80% of principal and interest). Thus, the new formula would provide

reimbursement at a level about 11% less than current reimbursement. 100% of principal would represent approximately 71% of total principal and interest.

QUESTION: How will it be decided what municipal school debt receives reimbursement if the \$10 million limit otherwise would be exceeded? (HB 520)

ANSWER: The Department of Education will establish a priority list based on criteria specified by law. Portions of school construction project costs also may be deemed ineligible for reimbursement based on design standards and regional cost differentials determined by the Department of Transportation and Public Facilities. Financing costs will not be eligible for reimbursement. State reimbursement will be reduced further by the interest earned on bond proceeds, except arbitrage which would have to be paid to the federal government under pending congressional legislation. These limitations will spread increasingly scarce State dollars further and enable the State to support more schools under the \$10 million limit.

QUESTION: Why is the limit set at only \$10 million? (HB 520)

ANSWER: There has been an explosion of authorization of municipal school debt. Between October 1, 1985, and March 31, 1986, total municipal school debt receiving voter approval is expected to exceed \$350 million. This would represent an increase of almost 50% in six months over the \$739 million school debt outstanding as of June 30, 1985. It is this explosion which will propel State payments for debt service to over 16% of State revenues by fiscal year 1989.

QUESTION: Can the limit be revised? (HB 520)

ANSWER: Certainly the limit could be amended by law in future legislative sessions. A report to the 1988 session of the legislature by the Department of Education on school construction needs is required in section 17 of HB 520. This would be an appropriate time to consider a revision. As an alternative, the State bond committee may revise the limit at any time in light of State credit conditions, school requirements, or any other reason.

QUESTION: Will the State Bond Committee decide which schools receive funding? (HB 520)

ANSWER: No. This will be determined solely by the Department of Education in establishing the priority list. The State Bond Committee will be concerned only with the credit implications for the State of the total amount of reimbursement to be paid.

QUESTION: What is lease-purchase financing? (HB 519)

ANSWER: Lease-purchase financing consists of debt obligations issued by a private developer or State agency to finance the construction or acquisition of facilities which are leased to the State. The lease payments made by the State are in an amount and duration which is equal to the principal and interest payments on the debt obligation. The debt obligation may take the form of a revenue bond or a certificate of participation in rent (CP or CCP as they are sometimes called). At the conclusion of the lease, title to the facility generally passes to the State.

QUESTION: Why is the Alaska State Housing Authority (ASHA) designated as the issuer of all lease-purchase financing for State facilities? (HB 519)

ANSWER: ASHA has previously issued lease revenue bonds for State facilities and is the current lessor of these facilities to the State. The designation of a single agency which has experience

and technical expertise in this area will improve accountability, efficiency, and control of these types of financing.

QUESTION: Why would ASHA be issuing debt under the name of the Alaska State Building Authority? (HB 519)

ANSWER: This name change, applicable only to the financing of public buildings, will improve the marketability of the debt. The alternate name avoids confusion about the issuer and debt since most state housing authorities issue debt only for the provision of low and moderate income housing. The name change helps recognize the higher credit standing accorded debt which is secured by payments from a state government for leases rather than from private individuals for rent.

QUESTION: What became of the State Office Complex Financing Task Force?

ANSWER: The Task Force, a body of executive branch officials, two legislators, and five members of the public with substantial financing experience, held hearings in the fall of 1985 and produced a report to the Governor which is available from the Treasury Division of the Department of Revenue. HB 519 implements the recommendations contained in that report.

QUESTION: Will ASHA be deciding what public buildings will be built or acquired? (HB 519)

ANSWER: No. Each branch of government and the University of Alaska would decide what facilities would be built or acquired. The facilities would have to meet the requirements and specifications of each branch or the University before the branch or University could be expected to execute the lease. No financing can occur without an executed lease.

QUESTION: Does this mean each branch or the University can enter into lease-purchase financings without legislative approval or approval by law? (HB 519)

ANSWER: Yes. However, the annual lease payments are subject to appropriation by the legislature as a matter of constitutional law. HB 519 requires lease-purchase agreements to state this fact so that it is clear to all parties. Because lease payments are subject to appropriation, lease-purchase financing is not debt from the standpoint of the State Constitution.

QUESTION: Could legislative approval or approval by law be required of lease-purchase financing by statute? (HB 519)

ANSWER: Alaska Supreme Court decisions indicate that this probably would violate the separation of powers doctrine and be unconstitutional. Legal questions of this caliber can easily derail debt financings because bond buyers will not purchase debt with such uncertainties about it. To achieve the same purpose, Governor Sheffield has pledged to seek legislative approval of any executive branch lease-purchase financings. The other branches and University might be expected to do the same.

QUESTION: Why does the State Bond Committee need to approve lease-purchase financings? (HB 519)

ANSWER: Lease-purchase financing is paid from the State general fund and, accordingly, is added into the State's debt burden by the credit rating agencies. Because of this, the State Bond Committee needs to control aspects of such financings which can affect the State's credit standing. This can include such things as the maturities of the debt, need for insurance, or the timing of the sale. The State Bond Committee will not be concerned with project justification or specification. This is the same manner

in which the Committee functions with respect to State general obligation debt.

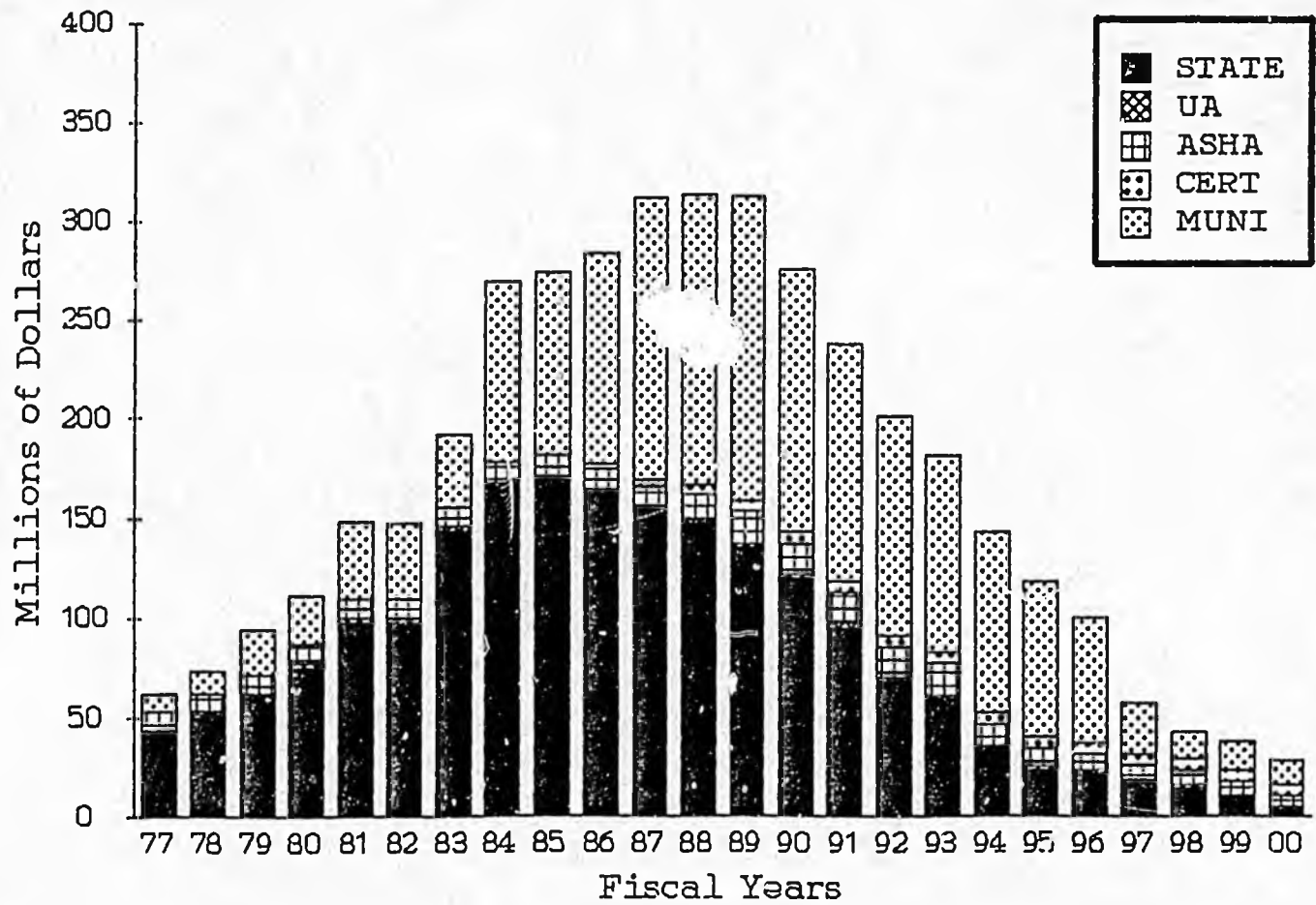
QUESTION: What municipalities would be forestalled from issuing additional debt under HB 521?

ANSWER: The North Slope Borough and the city of Wrangell currently have general obligation debt exceeding 7% of the full value of their property tax base. They would not be able to issue additional debt until their tax base has increased sufficiently or outstanding debt is paid down. The North Slope Borough should be able to issue additional debt again within two years. The city of Nenana would not be limited by the cap due to the exemption in HB 521 for self-supporting debt which is issued as a general obligation bond. Issuance of revenue bonds and refunding bonds are not limited by HB 521.

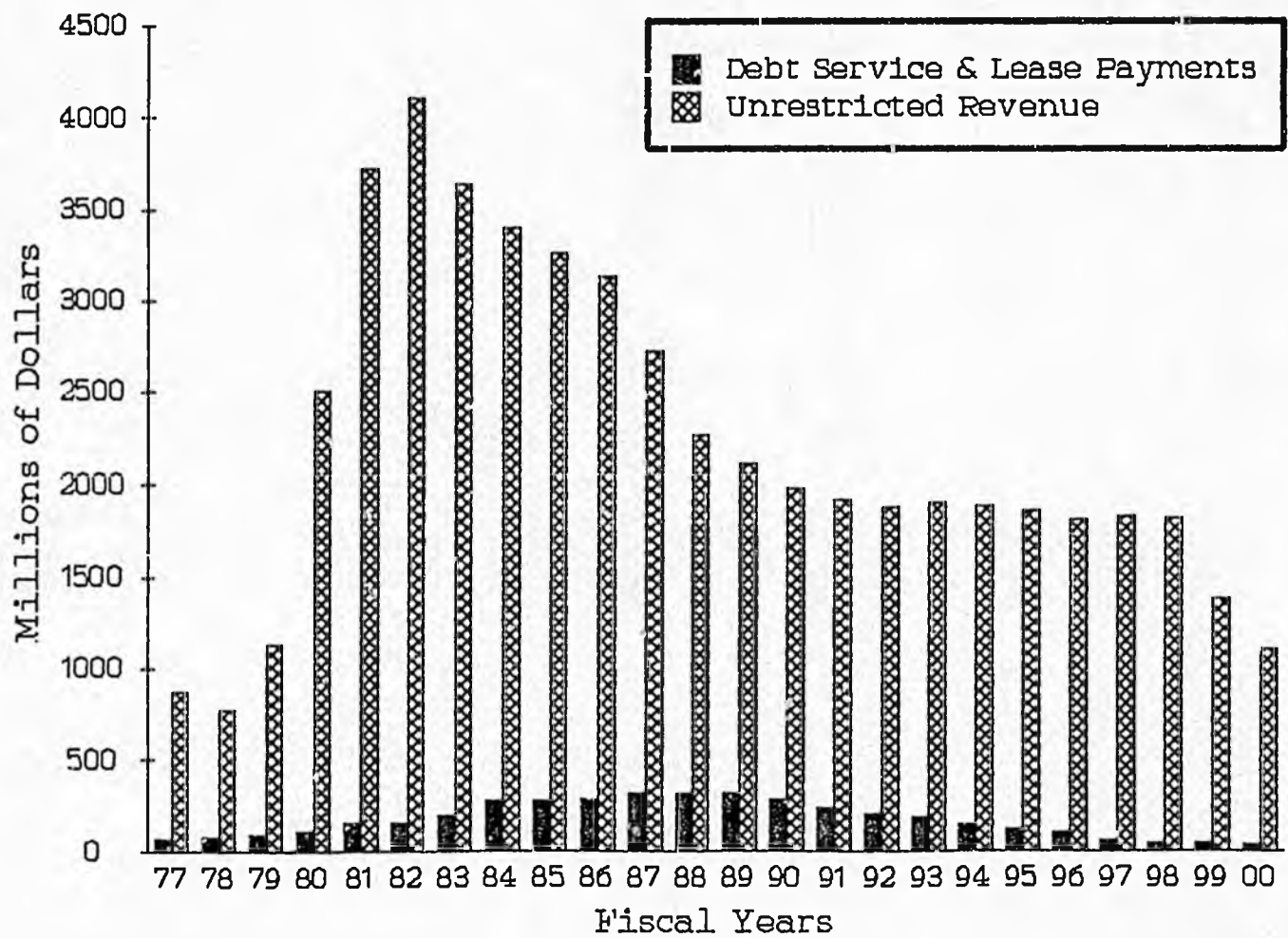
QUESTION: Why is the limit set at 7%? (HB 521)

ANSWER: National medians for municipal general obligation debt are in the range of 3% to 4% of full value. A higher level is appropriate for Alaska because the economy is still developing, with spurts of rapid growth in particular localities, if not statewide. However, a level significantly above 7% would not be an effective limit or provide the credit markets any comfort that Alaska is managing its debt.

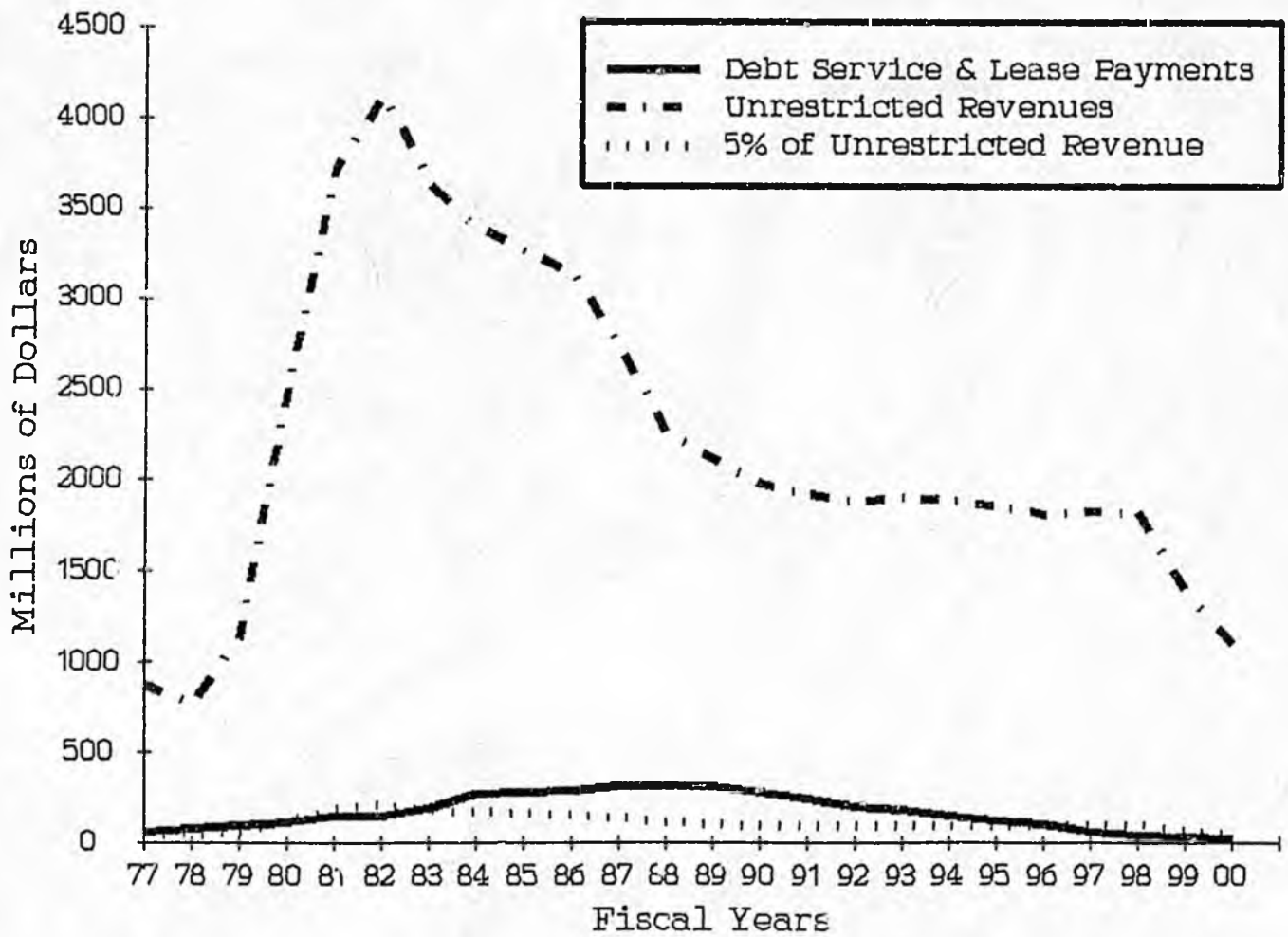
Total Debt Service & Lease Payments (January 28, 1986)



Debt Service vs. Unrestricted Revenue



Debt Service vs. 5% Revenue



Total Debt Service & Lease Payments
(\$ Millions)

<u>Fiscal Year</u>	<u>State</u>	<u>UA</u>	<u>ASHA</u>	<u>Certificates of Participation (Cert)</u>	<u>School Debt (Muni)</u>
77	41.9	1.5	9.9	0	9.0
78	50.0	1.7	10.1	0	11.4
79	60.0	1.7	10.1	0	22.3
80	75.1	1.0	10.1	0	11.1
81	97.6	2.2	10.0	0	38.4
82	97.5	2.3	10.0	0	38.3
83	143.6	2.0	9.9	0	36.2
84	166.3	2.0	9.9	0	91.2
85	169.5	2.0	9.9	.1	92.8
86	163.2	1.8	9.9	3.0	105.3
87	154.9	1.8	9.5	3.0	143.0
88	147.9	1.7	12.5	5.1	146.0
89	135.5	1.8	16.5	5.1	154.0
90	120.3	1.7	15.5	6.0	132.0
91	95.5	1.7	15.5	6.0	119.0
92	68.2	1.7	15.5	6.0	110.0
93	59.7	1.7	15.5	5.9	99.0
94	33.9	1.5	11.1	5.9	91.0
95	23.1	1.5	9.5	5.9	79.0
96	21.5	1.5	8.0	5.9	63.0
97	16.7	1.5	7.0	5.9	26.0
98	14.4	1.5	7.0	5.9	14.0
99	9.0	1.5	7.0	5.9	14.0
00	2.6	1.5	6.0	5.9	12.0

Debt Service vs. Unrestricted Revenue
(\$ Millions)

<u>Fiscal Year</u>	<u>Total Debt Service</u>	<u>Unrestricted Revenue</u>	<u>Percentage</u>
77	62.4	874.3	7.1%
78	73.3	764.9	9.6
79	94.1	1133.0	8.3
80	111.0	2501.2	4.4
81	148.2	3718.2	4.0
82	148.1	4108.4	3.6
83	192.0	3631.0	5.3
84	269.5	3390.1	7.9
85	274.3	3260.0	8.4
86	283.2	3124.6	9.1
87	312.0	2718.8	11.5
88	313.0	2257.4	13.9
89	313.0	2109.1	14.8
90	276.0	1980.4	13.9
91	238.0	1915.5	12.4
92	201.0	1874.6	10.7
93	182.0	1903.7	9.6
94	143.0	1881.8	7.6
95	119.0	1854.9	6.4
96	100.0	1808.2	5.5
97	57.0	1820.7	3.1
98	42.0	1812.5	2.3
99	37.0	1378.1	2.7
00	27.0	1106.0	2.4

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

SEVEN PERCENT CAP

Borough	FULL VALUE	6.0% DEBT	7% GF FULL VALUE	PERCENT OF 6.0% DEBT/CAP	CURRENT PERCENT DEBT
Anchorage	\$15,755,411,000.00	\$358,779,700.00	\$1,102,878,770.00	32.53%	2.28%
Bristol Bay	\$101,798,800.00	\$3,535,000.00	\$7,125,916.00	49.61%	3.47%
Fairbanks	\$4,210,997,700.00	\$90,928,500.00	\$294,769,939.00	30.85%	2.16%
Haines	\$93,945,500.00	\$1,300,000.00	\$6,576,185.00	19.77%	1.38%
Juneau	\$1,613,389,900.00	\$47,651,000.00	\$112,937,223.00	42.19%	2.95%
Kenai Peninsula	\$3,290,219,200.00	\$137,929,000.00	\$770,715,344.00	59.89%	4.19%
Ketchikan Gateway	\$675,985,100.00	\$31,930,000.00	\$1,957,000.00	67.48%	4.72%
Kodiak	\$572,370,700.00	\$28,270,000.00	\$40,000.00	70.56%	4.94%
Mat-Su	\$2,337,406,200.00	\$112,208,000.00	\$165,718,434.00	67.71%	4.74%
North Slope	\$12,876,786,900.00	\$1,155,650,000.00	\$901,375,083.00	128.21%	8.97%
Sitka	\$396,227,900.00	\$12,400,000.00	\$27,735,953.00	44.71%	3.13%
Total Boroughs	\$41,954,537,900.00	\$1,980,631,400.00	\$2,936,817,653.00	67.44%	4.72%

CITIES

Bethel	\$182,296,900.00	\$557,500.00	\$12,760,783.00	4.36%	0.31%
Cordova	\$120,673,000.00	\$0.00	\$8,447,110.00	0.00%	0.00%
Craig	\$34,707,400.00	\$0.00	\$2,429,518.00	0.00%	0.00%
Delta Junction	\$30,870,500	\$0	\$2,160,935.00	0.00%	0.00%
Dillingham	\$94,669,900.00	\$0.00	\$6,626,893.00	0.00%	0.00%
Eagle	\$9,104,500.00	\$0.00	\$637,315.00	0.00%	0.00%
Galena	\$19,149,500.00	\$900,000.00	\$1,340,465.00	67.14%	4.70%
Hoonah	\$27,845,200.00	\$0.00	\$1,949,164.00	0.00%	0.00%
Hydaburg	\$12,688,900.00	\$0.00	\$888,223.00	0.00%	0.00%
Kake	\$11,608,000.00	\$0.00	\$812,560.00	0.00%	0.00%
King Cove	\$23,230,800.00	\$0.00	\$1,626,156.00	0.00%	0.00%
Klawock	\$5,563,000.00	\$0.00	\$389,410.00	0.00%	0.00%
Kotzebue	\$93,245,100.00	\$0.00	\$6,527,157.00	0.00%	0.00%
Nenana	\$12,881,500.00	\$2,717,300.00	\$901,795.00	301.35%	21.09%
Nose	\$116,712,900.00	\$2,161,200.00	\$8,169,903.00	26.45%	1.85%
Pelican	\$10,155,400.00	\$0.00	\$710,878.00	0.00%	0.00%
Petersburg	\$161,219,300.00	\$6,195,000.00	\$11,285,351.00	54.89%	3.84%
Sand Point	\$71,086,800.00	\$0.00	\$4,976,076.00	0.00%	0.00%
Skaqway	\$58,447,100.00	\$820,000.00	\$4,091,297.00	20.04%	1.40%
St. Mary's	\$4,239,400.00	\$0.00	\$296,759.00	0.00%	0.00%
Tanana	\$11,195,400.00	\$0.00	\$783,672.00	0.00%	0.00%
Unalakleet	\$19,714,500	\$0	\$1,380,015.00	0.00%	0.00%
Unalaska	\$105,309,400.00	\$3,299,000.00	\$7,371,658.00	44.75%	3.13%
Valdez	\$1,740,431,900.00	\$75,833,000.00	\$121,830,233.00	62.24%	4.36%
Whittier	\$19,419,200.00	\$0.00	\$1,359,344.00	0.00%	0.00%
Wrangell	\$111,757,000.00	\$10,750,000.00	\$7,922,990.00	137.42%	9.62%
Yakutat	\$17,679,400.00	\$235,200.00	\$1,237,558.00	19.01%	1.33%
TOTAL CITIES	\$3,125,901,900.00	\$103,467,200.00	\$218,813,133.00	47.29%	3.31%

STATE	\$48,915,237,900.00	\$816,100,000.00	\$3,424,066,653.00	23.83%	1.67%
Total Boroughs	\$41,954,537,900.00	\$1,980,631,400.00	\$2,936,817,653.00	67.44%	4.72%

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 27, 1986

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting two bills that provide for improved state debt management. One relates to control of state-supported school debt, the other to lease-financing transactions by the various branches of government.

These two bills are each cornerstones of a comprehensive proposal designed to monitor and control more effectively the issuance of debt instruments that harbor substantial credit implications for the state. (Some citations in each bill are to provisions in the other bill. The two work together.) Alaska's remarkable wealth has facilitated tremendous economic growth in all areas of the state's economy and at all levels of government. Many of these worthy projects and programs have been funded directly by the state. In other instances, however, funding has been obtained through the issuance of debt instruments, either by the state or by local governments. Where government activities are funded through the issuance of debt, maintenance of a favorable credit rating for the state assumes critical importance. Simply stated, actions detrimental to the state's credit standing are injurious to the Alaska economy.

Unlike past years, we approach an era where the state's vast wealth is not, in and of itself, sufficient to support a favorable credit rating. In my discussions with representatives of the national financial community, the constant theme stated was the need for Alaska to demonstrate its ability to effectively manage its resources. One critical

attribute of responsible state management is an effective debt management program.

Any discussion of maintenance of a favorable credit rating for the state must reflect the broad array of financial obligations encompassed within the term "state-supported debt." It is critical to bear in mind that state general obligation bonds are but one type of debt instrument that affects the state's credit standing. The financial community also looks to other recurring, long-term financial obligations which are paid from the general fund, such as those which arise under a lease-financing agreement. In a similar vein, the state's commitment to support school debt issued by municipalities is a type of long-term financial commitment with substantial credit implications.

Debt management concerns must further reflect the impact of excessive or improvident municipal debt issuance on the state's credit standing. I initially observe that responsible state debt management policies must necessarily include a degree of state supervision of municipal debt issuance. While I am, of course, cognizant and supportive of the prerogatives of local government, problems with municipal debt issuance inevitably burden the state as well. For that reason, I previously introduced a bill that relates directly to the issuance of municipal debt. Last session I proposed the establishment of a Municipal Financial Emergency Commission to assist municipalities that have defaulted in bonded indebtedness (HB 293). I am also proposing legislation that imposes reasonable limitations on a municipality's authority to issue general obligation debt. As noted in the transmittal letters accompanying each of those bills, responsible state management of municipal debt is necessary to assure the continued investment community support of and confidence in municipal and state debt issues.

The two bills attached to this letter today are intended to assure proper state oversight before the state enters into the type of recurring, long-term financial commitments that might have an impact on the state's credit standing. Where the state issues general obligation bonds, the constitutional requirement of voter approval offers an appropriate opportunity for the electorate and for elected officials to gauge any adverse effect that issuance of the debt may have on the state. Under present law, however, neither the statutory reimbursement formula for school debt nor the unrestricted authority to enter lease-financing agreements

offers comparable mechanisms to assure that state credit implications are adequately addressed. As the decline of available revenues further exacerbates the sensitivity of the state's credit standing, it is of critical importance to assure that each project is viewed not only on its own merits but also with consideration of how the issuance of additional state-supported debt will affect broader state interests. I believe that these two bills offer a responsible way of meeting the needs of the state to obtain office facilities and of municipalities to provide necessary educational facilities -- a way that best preserves the state's favorable credit standing.

I.

The shorter bill implements the recommendations of the State Office Complex Financing Task Force, a body whose membership brought together the views of executive-branch officials, two legislators, and several members of the public with substantial financing expertise. The task force conducted extensive hearings to consider the most appropriate method to provide state office facilities in the most cost-efficient manner possible. After review of the available financing alternatives, the task force recommended the enactment of legislation to facilitate the acquisition of state office facilities through lease-financing agreements. The bill designates the Alaska State Housing Authority as the appropriate financing entity, but provides that when the authority issues debt for this purpose, it do so as the Alaska State Building Authority. The name change is intended to prevent confusion in national financing markets.

Sections 1, 6, 7 and 8 provide that the university and each branch of government, respectively, have legal authority to enter into lease-financing agreements with the Alaska State Housing Authority acting as the Alaska State Building Authority. The state has previously executed lease-financing agreements under existing lease authority, and these sections are thus intended to remove any ambiguities regarding the legal authority to enter into lease-financing agreements. The cost of building acquisition or development would be provided by the sale of revenue bonds by the Alaska State Building Authority. In all instances, a lease-financing agreement preserves legislative prerogatives through the requirement that lease payments be subject to annual appropriation.

While the bill recognizes the desirability of the lease-financing technique, the bill also imposes effective debt

management controls. First, lease-financing agreements may only be executed with the Alaska State Building Authority, a limitation that ensures uniformity and continuity in the state's lease-financing programs.

More importantly, secs. 9 -- 16 expand the responsibilities of the state bond committee (AS 37.15) to ensure that the broader credit implications are adequately assessed before the state enters into a lease-financing agreement. Under sec. 15, for example, proposed AS 37.15.770 authorizes the state bond committee to review any proposed lease financing in detail and to prohibit or condition the sale of the debt instruments if it is in the best interests of the state to do so.

I observe that sec. 8 of this bill is similar to legislation that I proposed last session in the wake of the controversy surrounding the Anchorage Office Complex. The bill proposed last session (HB 392 and the identical SB 293) provided for project-specific legislative approval before execution of a lease-financing agreement. In the transmittal letter accompanying the initial bill, dated April 19, 1985 (1985 H.J., p. 1001, and 1985 S.J., p. 856), I noted that the provision of project-specific legislative approval posed substantial constitutional problems. Both the constitutional doctrine of separation of powers and the constitutional prohibition against special and local legislation place in serious legal doubt any statutory requirement to seek project-specific approval. And public finance is the worst forum to interject such a substantial legal uncertainty. Accordingly, the present bill does not propose project-specific approval. To do so, in my view, would impermissibly intrude upon the constitutional prerogatives of future governors. Although I believe it inappropriate to require project-specific approval as a matter of law, I reaffirm my personal commitment to seek legislative approval before the executive branch enters into any lease-financing agreement.

II.

The longer of these two bills that I am transmitting makes several changes to the state's support of public school construction. Most notable of the significant changes proposed under this bill is a cap is placed upon the amount of municipal debt obligations for which the state will provide reimbursement. Municipalities issuing debt to finance school construction will pay the interest costs, while the state will pay the principal in equal payments up

to an aggregate amount of \$10,000,000 in any year for debt approved by local voters after March 31, 1985.

The state presently provides, in addition to its municipal grant program, three forms of aid for school construction. Under AS 14.11.010 all school districts may apply to the Department of Education for an appropriation for school construction projects for which the department may request, in order of priority, appropriations from the legislature. If an appropriation for a school construction project is made, the school district may, under AS 14.11.020, request the assumption of the state's responsibility to plan, design, and construct the particular project. The department provides for the assumption of the responsibility by executing a grant agreement with the school district.

AS 14.11.100 provides two additional forms of state aid for public school construction which are only available to municipal school districts. The state reimburses municipal debt service payments in varying percentages which, because of amendments made in ch. 78, SLA 1985, are at least 80 percent. The state also reimburses a municipality for at least 80 percent of its cash payments used for school construction. To receive reimbursement of either debt service or cash payments, the municipality must first quantify the need for the project and provide a description of the project and an estimate of its cost. The Department of Education reviews the project and its justification, and, when appropriate, grants its approval of the project and its estimated costs. The next step is approval of the municipality's voters to sell the bonds. If the local voters approve the sale of the bonds, the state will reimburse the costs of debt service by requesting money in each year's budget.

There are several weaknesses in the state's present programs of financing school construction.

First, there are inadequate procedures to ensure that the estimates of project costs are reasonable. Before 1982, the administration of the school construction grant program was shared by the Department of Education and the Department of Transportation and Public Facilities. Chapter 92, SLA 1982 transferred all responsibility for the state's construction grant program to the Department of Education. This same weakness exists under AS 14.11.100.

The second major failing is that there is no ceiling for the amount of money which the state will be requested to reim-

burse under AS 14.11.100. In the proposed FY 1987 state budget, approximately \$106,000,000 in municipal debt service payments is requested to continue existing level of debt.

During the last session of this legislature, the percentage of reimbursement for debt service costs was increased to 80 percent, although allowable projects were limited to facilities necessary for increased enrollment or to correct health and safety problems. The result of last session's amendments to AS 14.11.100 has been an identification of required projects with approval of the projects closely followed by local bond elections. These recent municipal elections have authorized approximately \$312,500,000 of new municipal debt for which local communities will seek reimbursement from the state for debt service costs. I anticipate, if all of this newly authorized debt is incurred in the near term, that the impact on the debt retirement program could be as much as an additional \$45,000,000 in requested reimbursements in FY 1987. I intend to support this additional funding as soon as the amount is determined and necessary debt management legislation is passed.

I, of course, recognize that there are municipalities in the state which have experienced significant population increases, and which therefore need the construction of new schools. I believe that these existing needs should be met at the current levels of state support. However, the future of state revenues and the need for new schools are uncertain. Consequently, I believe that different approaches need to be applied to the way the state considers all school construction in the state.

With discipline and altered approaches to the school construction, I believe that the state and its municipalities can contain state-supported debt and still allow for adequate state support of school construction.

This bill changes procedures for reviewing and approving school projects.

Section 1 amends AS 14.08.151. These amendments are desirable to clarify the manner in which the state conveys title for school sites to regional education attendance areas.

Section 2 amends AS 14.11.010(b) by requiring the Department of Education to request cost estimates from the Department of Transportation and Public Facilities and to base its

project approval upon that cost estimate. This same requirement is found in sec. 11 in amendments to AS 14.11.102, which relates to project approval for the debt retirement program. Section 14 contains new authority for DOT/PF to estimate construction costs for all school projects financed by appropriations and debt retirement. Included within that authority is the responsibility to establish design standards.

Section 3 of the bill amends AS 14.11.010(c) by adding new criteria, relating to population trends and the condition of facilities, which the Department of Education will consider when approving projects for appropriation. These amendments are also applicable to the debt retirement program under language found in sec. 11.

Section 4 proposes new language that will require school districts requesting state aid to inventory and inspect the schools in their districts and to revise that inventory on a yearly basis. The provisions of this section also require that school districts provide information relating to maintenance and operation costs. This information regarding existing school facilities will enable the state to better analyze new projects that the state will be asked to finance by appropriation or by debt reimbursement.

Sections 5 and 6 limit the state's reimbursement of school debt to principal only for approved projects financed by new municipal debt authorized by local voters after March 30, 1986. If the debt was authorized by local voters before April 1, 1986, the state's reimbursement continues as before. The state's reimbursement of cash payments by municipalities ends for payments made after June 30, 1986.

Section 7 amends AS 14.11.100(b) by offsetting the amount that the municipality receives for debt reimbursement by the amount of interest earned on the proceeds of bonds sold for a particular project. This amendment parallels existing law found in AS 14.11.100(k), which is repealed in sec. 16.

Sections 8, 9, and 10 contain a number of amendments to AS 14.11.100(h), (i), and (j), respectively, which are necessary to reflect the new class of reimbursement under the language proposed in AS 14.11.100(a)(6) in sec. 6 of the bill. Section 10 has a fiscal impact. It amends AS 14.11.100(j)(2) to allow refunding of bonds only in those situations where there is at least a five percent saving in debt service costs. It also amends AS 14.11.100(j)(3) by requiring that the principal on bonds be reimbursed in equal

annual payments over a period of 10 years or a term set by the state bond committee.

Under sec. 12, the Department of Education will continue to allocate money to reimburse municipal debt. However, a cap on reimbursement is placed upon debt authorized by local voters after April 1, 1986. The department may only allocate money for the reimbursement of principal paid on new debt if the new payments, when combined with all other reimbursements under this class of debt, do not exceed the \$10,000,000 or an amount set by the state bond committee. This mechanism will have two results. It puts a cap on state-supported debt, but, with discipline, it will enable municipalities to construct needed school projects in addition to those that are financed by bonds authorized by local voters before April 1, 1986.

Section 13 amends AS 14.11.135(3) by changing the definition of school construction costs. It excludes all financing costs for debt authorized by local voters after March 31, 1986.

Section 14 adds three new sections to AS 35.15. Under the proposed language, the Department of Transportation and Public Facilities will estimate the costs of all school construction projects under common design standards that it will develop.

Section 15 amends AS 37.15 to give the state bond committee the ability to manage state-supported school debt, which is accomplished under two different mechanisms. First, it may establish a higher or lower ceiling for allocations for reimbursement of new authorizations of school debt under AS 14.11.100(a)(6) (found in sec. 6), depending on the state's credit standing as well as on the needs for school construction. Second, it may control the term of the obligations to ensure that their maturity structure does not adversely affect the state's credit standing. While a 10-year term is allowed by the proposed provisions of AS 14.11.100(j)(2) (found in sec. 10), the committee is accorded the ability to set a different term when it is in the state's best interest.

It is our intent with the language in sec. 17 to develop a long range plan for the state's school construction through the end of the century. The necessary components of this plan would include projected enrollments under reasonable population projections, construction costs, design parameters, and financing techniques. It is our hope that,

after the completion of the plan, a rational mechanism can be put in place to provide for the state's public school construction needs which is within the state's ability to pay.

III.

Continued economic prosperity for all sectors of the Alaska economy is in part inextricably tied to more rigorous state debt management. These two bills, as well as legislation relating to responsible limitation on municipal debt, promote more responsible state debt management. Alaska's credit standing is, of course, in part dependent on factors beyond our control. That the state cannot control all relevant factors is no excuse, however, for the inadequate management of those factors within our control. I believe that it is critical that the state become more sensitive to the long-term credit implications of each isolated funding decision. These two bills provide for responsible yet flexible state debt management, and I urge your prompt consideration and approval of these measures.

Sincerely,



Bill Sheffield
Governor



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 15, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to establish a Municipal Financial Emergency Commission that will provide assistance to municipalities that are in default on bonded indebtedness.

Recent controversy surrounding the financial practices of the North Slope Borough has led to a greater sensitivity to the consequences of local financial disorder. While there is absolutely no indication that the present problems of the North Slope Borough will have any effect on the borough's ability to satisfy all debt service obligations, the controversy has led to concern that current law does not provide a role for the state in the event of a municipal default. It bears noting that a municipal default will inevitably affect the state and other municipalities as well. While each municipality's general obligation debt is of course a direct financial burden of only the issuing municipality, the practical fact is that all governmental entities in the state share, to one degree or another, in the consequences of a municipal default. While I reiterate that there is no present prospect of municipal default, it is imperative to establish a procedure to deal with that event before a financial crisis occurs -- not in response to one.

The bill proposes the establishment of the Municipal Financial Emergency Commission which consists of the commissioners of the Departments of Community and Regional Affairs, Revenue, and Administration. Under proposed AS 29.58.420, a municipality must provide notice of a default to the commission, or the municipality may request the assistance of the commission in anticipation of financial distress. Once the commission receives notice of a municipality in financial disarray, the commission must

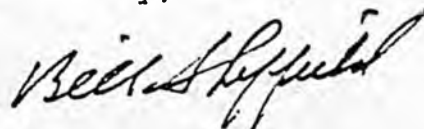
promptly convene and assess the municipality's financial affairs.

Under proposed AS 29.58.410, the commission enjoys extraordinarily broad powers to assure, to the extent possible, the resolution of the financial crisis. The fundamental objective of the commission is to adopt a plan that satisfies debt service obligations in a manner acceptable to municipal creditors. The commission enjoys the power to issue subpoenas and orders as are necessary to undertake this task.

I certainly anticipate that a municipality will act to implement the plan adopted by the commission. However, the bill provides that, in the unlikely event that a municipality fails to implement the plan, or if the commission determines that the municipality remains in financial disarray, the commission may assume full control of the defaulting municipality's financial affairs. This extraordinary intrusion upon local governmental prerogatives can only be exercised in narrowly prescribed instances and, as do all of the commission's powers, the authority of the commission expires upon the successful satisfaction of the default. While certain of these broad powers may approach the legal limit of the state's authority to impair local government powers, I believe that the overwhelming public concern for the financial stability of all Alaskan communities offers a compelling justification for this possible intrusion.

I again emphasize that this bill does not foretell any municipal default. In the area of municipal finance, however, it is not sufficient to act only in response to events. Instead, it is far preferable to establish a mechanism before any default, so that if a municipality does default on a debt service obligation, the repercussions to the state and to other municipalities are limited to the extent possible. With due respect for the prerogatives of local governments, I believe that this bill provides a needed mechanism for state involvement. I urge your prompt consideration and passage of this bill.

Sincerely,



Bill Sheffield
Governor



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 27, 1936

The Honorable Den Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will establish a reasonable limit on the authority of a municipality or borough to issue general obligation bond debt.

At present, there is no limit as to the amount of general obligation debt that municipalities may incur. And, while taxing limits are generally prescribed by statute, current law specifically exempts from the taxing limitation any assessments necessary to satisfy debt service obligations. The potential for excessive municipal debt burdens -- a burden that both directly and indirectly affects the state and other municipalities -- is one which simply must be controlled.

I believe that reasonable general obligation bond debt limitations are essential to preserve the financial stability of Alaska municipalities. We are all aware that the level of per capita municipal debt in Alaska far exceeds the national average. To be sure, the lack of basic public services in many areas of the state contributes to the current level of debt. While I am certainly sensitive to the extreme, and at times costly, needs of rural communities, I am equally concerned that excessive municipal debt will only undermine the substantial economic progress enjoyed by all Alaska communities in the last several years.

The problems associated with excessive debt requirements will increase in the future. As state revenues decline,

municipalities will increasingly be responsible for the cost of governmental services, and this inevitable burden will only be further compounded if municipalities are saddled with excessive debt service obligations.

The bill proposes that a municipality may not incur additional general obligation debt if, upon issuance, the municipality's general obligation debt would exceed seven percent of the market value of property which is taxable under state law. The Department of Community and Regional Affairs is currently required by statute to ascertain annually the property value necessary for this limit. That only three communities -- the North Slope Borough, the cities of Nenana and Wrangell -- exceed the seven percent standard is indicative that the limit is reasonable, and will not unfairly limit the prerogatives of local governments.

It is equally important to note what the bill does not do. The bill does not limit in any manner a municipality's authority to levy taxes in order to satisfy debt service obligations. The bill does not limit a municipality's authority to issue revenue or refunding bonds. And finally, the bill does not penalize those municipalities that have issued debt in excess of the seven percent standard.

I believe that the bill provides a needed assurance that municipalities will not incur an unsupportable debt burden. Establishment of a debt ceiling greatly diminishes the prospect of a municipal default. It also prevents a decline in state revenues as municipal assessments are increased to support an ever-increasing debt burden. I urge your prompt passage of this legislation.

Sincerely,

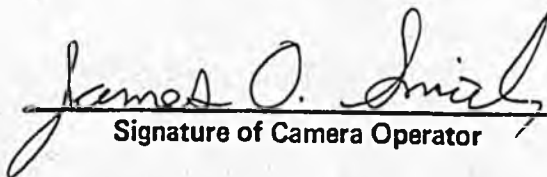
Bill Sheffield
Governor

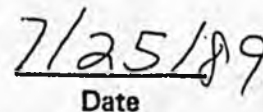


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