

HOUSE
COMMITTEE REPORT

(11)

Date referred: 3/26/86

FURTHER REFERRALS:

DATE: 4-11-86

The FINANCE Committee has considered HB 477

"An Act making and amending appropriations for the Alaska Power Authority; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 477 (Fin) same title

and recommends DO PASS new title

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DC PASS:

Liberto Adams
[Signature]
Mike Simonovich
Pat Fouchet
[Signature]
[Signature]
[Signature]

SIGNING OTHER RECOMMENDATIONS:

Ronald J. Turner No rec.

Liberto Adams
Chairman

Original sponsor: Rules/Governor

Funding Information

General Fund	\$271,700,000
Other Funds	(271,700,000)
	<u>-0-</u>

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 477 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making, amending, and repealing appropri-
7 tions for energy programs; and providing for an
8 effective date."

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

10 * Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna
11 Hydroelectric Project Financing - \$200,000,000) is repealed.

12 * Sec. 2. Section 3, ch. 96, SLA 1985, page 8, line 5 (Bradley Lake
13 Hydroelectric Financing - \$50,000,000) is repealed.

14 * Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 13 (Power Cost
15 Equalization - \$21,700,000) is repealed.

16 * Sec. 4. The sum of \$200,000,000 is appropriated from the general fund
17 to the Railbelt energy fund (AS 44.25.050) for the purpose of Railbelt
18 energy development.

19 * Sec. 5. The sum of \$50,000,000 is appropriated from the general fund
20 to the power development fund (AS 44.23.382) for the purpose of financing
21 the Bradley Lake hydroelectric project.

22 * Sec. 6. The sum of \$21,700,000 is appropriated from the general fund
23 to the power cost equalization fund (AS 44.93.162) for the purpose of
24 providing power cost equalization assistance to utilities.

25 * Sec. 7. AS 44.83.165 is amended to read:

26 Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-
27 IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984, [AND
28 THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT
29 FISCAL YEAR] from the general fund to the power cost equalization fund

(AS 44.83.162).

* Sec. 8. AS 44.83.410 is amended to read:

Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR RAILBELT ENERGY DEVELOPMENT [SUSITNA RIVER HYDROELECTRIC PROJECT]. The sum of \$100,000,000 is appropriated on July 1, 1984, [AND THE SUM OF \$200,000,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR] from the general fund to the authority for deposit in the power development fund (AS 44.83.382) for the purpose of Railbelt energy development [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR, THE SUSITNA RIVER HYDROELECTRIC PROJECT].

* Sec. 9. AS 44.83.420 is amended to read:

Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on July 1, 1984, [OF EACH FISCAL YEAR] from the general fund to the authority for deposit in the power development fund (AS 44.83.382) for the purpose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR,] the Bradley Lake hydroelectric project.

* Sec. 10. The unexpended, unobligated, and unencumbered balance of the appropriation in sec. 3 of this Act is repealed and reapportioned to the Railbelt energy fund (AS 44.25.050).

* Sec. 11. Obligations, encumbrances, and expenditures incurred against appropriations repealed or amended in secs. 1 - 3 and 7 - 9 of this Act are considered obligations, encumbrances, and expenditures of the appropriations enacted in secs. 4 - 6 of this Act. The appropriations enacted in secs. 4 - 6 and 10 of this Act do not appropriate any more money than was previously appropriated by the appropriations amended or repealed in secs. 1 - 3 and 7 - 9 of this Act.

* Sec. 12. The unexpended, unobligated and unencumbered balance of the appropriation made by sec. 1, ch. 76, SLA 1979 (Office of the Governor for CSHB 477(Fin)

1 Susitna studies - \$8,178,000) is repealed and reappropriated to the
2 Railbelt energy fund (AS 44.25.050).

3 * Sec. 13. The unexpended, unobligated and unencumbered balance of the
4 appropriation made by sec. 236, ch. 50, SLA 1980, page 67, line 6 (Power
5 project fund, feasibility analysis, Upper Susitna - \$7,000,000) is repealed
6 and reappropriated to the Railbelt energy fund (AS 44.25.050).

7 * Sec. 14. Section 6, ch. 90, SLA 1981, as amended by sec. 83, ch. 141,
8 SLA 1982, sec. 94, ch. 106, SLA 1983, and sec. 193, ch. 105, SLA 1985 is
9 amended to read:

10 Sec. 6. The sum of \$12,713,200 [\$30,813,200] is appropriated
11 from the general fund to the Alaska Power Authority for feasibility
12 studies, preconstruction design, and engineering, to be allocated to
13 the following proposed projects:

Project	Amount
(1) Black Bear Lake	1,400,000
(2) Chester Lake	1,000,000
(3) Chakachamna Lake	997,000
(4) Grant Lake	1,000,000
(5) Bethel regional study/Kisaralik	1,000,000
(6) Power Creek	302,200
(7) [SUSITNA	12,100,000]
(8) Tazimina Lake	2,000,000
(9) West Creek	1,000,000
(10) Rural community feasibility studies:	
Akiok, Akutan, Ambler, Angoon, Atka, Chignik,	
Chignik Lagoon, Chignik Lake, Chuathbaluk,	
Cold Bay, Elin, False Pass, Goodnews Bay,	
Grayling, Gustavus, Irtanoff Bay, Kaltag,	
Karluk, Kiana, King Cove, Larsen Bay,	

Nikolski, Old Harbor, Perryville,
Scarmon Bay, Shungnak, Tenakee Springs,
Togiak, Unalaska

2,515,600

* Sec. 15. The unexpended, unobligated and unencumbered balance of the appropriation and allocation repealed by sec. 14 of this Act (Susitna - \$12,100,000) is reappropriated to the Railbelt energy fund (AS 44.25.050).

* Sec. 16. The unexpended, unobligated and unencumbered balance of the appropriation made by sec. 73, ch. 101, SIA 1982, (Alaska Power Authority, Susitna studies - \$25,600,000) is repealed and reappropriated to the Railbelt energy fund (AS 44.25.050).

* Sec. 17. The unexpended, unobligated and unencumbered balance of the appropriation made by sec. 34, ch. 107, SIA 1983, page 49, line 25 (Alaska Power Authority, Susitna - \$26,000,000) is repealed and reappropriated to the Railbelt energy fund (AS 44.25.050).

* Sec. 18. The unexpended, unobligated and unencumbered balance of the appropriation made by sec. 319, ch. 171, SIA 1984, page 23, line 11 (Alaska Power Authority, Susitna - \$32,000,000) is repealed and reappropriated to the Railbelt energy fund (AS 44.25.050).

* Sec. 19. The appropriations in secs. 4, 5, 10, 11, 13, and 15-18 of this Act are for capital projects, and do not lapse, in accordance with AS 37.25.020.

* Sec. 20. Sections 1 - 3 and 5 - 9 of this act are retroactive to July 1, 1985.

* Sec. 21. This Act takes effect on the effective date of an Act creating the Railbelt energy fund.

Original sponsor: Rules/Governor

Funding Information

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Other Funds (271,700,000)

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BY THE FINANCE COMMITTEE

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* Sec. 11. Obligations, encumbrances, and expenditures incurred against appropriations repealed or amended in secs. 1 - 3 and 7 - 9 of this Act are considered obligations, encumbrances, and expenditures of the appropriations enacted in secs. 4 - 6 of this Act. The appropriations enacted in secs. 4 - 6 and 10 of this Act do not appropriate any more money than was previously appropriated by the appropriations amended or repealed in secs. 1 - 3 and 7 - 9 of this Act.

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(7) SUSITNA	13,100,000
(8) Tazimina Lake	2,000,000
(9) West Creek	1,000,000
(10) Rural community feasibility studies: Akiok, Akutan, Ambler, Angoon, Atka, Chienik, Chignik Lagoon, Chignik Lake, Chuathbaluk, Cold Bay, Elim, False Pass, Goodnews Bay, Grayling, Gustavus, Ivnotoff Bay, Kaltag, Karluk, Kiana, King Cove, Larsen Bay,	

Nikolski, Old Harbor, Ferryville,
Scarmon Bay, Shungnak, Tenakee Springs,
Togiak, Unalaska

3,615,600

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* Sec. 19. The appropriations in secs. 4, 5, 10, 12, 13, and 15-18 of this Act are for capital projects, and do not lapse, in accordance with AS 37.25.020.

* Sec. 20. Sections 1 - 3 and 5 - 9 of this act are retroactive to July 1, 1985.

* Sec. 21. This Act takes effect on the effective date of an Act creating the Railbelt energy fund.

MEMORANDUM

3/25/86

TO: Rep. John Sund

FROM: J. Hartle, PA

RE: Sectional analysis of CSHB 477 (Loans)

- Section 1. Repeals continuing appropriation for Susitna.
- Section 2. Repeals continuing appropriation for Bradley Lake.
- Section 3. Repeals continuing appropriation for PCE.
- Section 4. Reappropriates \$200 million repealed in section 1, to the Railbelt Energy Fund (HB 699).
- Section 5. Reappropriates \$50 million repealed in section 2, to the Power Development Fund in the APA.
- Section 6. Reappropriates \$21.7 million repealed in section 3, to the PCE Fund.
- Section 7. Appropriates \$16.3 to PCE and repeals the continuing nature of the appropriation.
- Section 8. Appropriates \$100 million to the Power Development Fund for the purpose of Railbelt Energy Development, repeals the continuing nature of the appropriation.
- Section 9. Appropriates \$50 million to the Power Development Fund for Bradley Lake, repeals the continuing nature of this appropriation.
- Section 10. Repeals and reappropriates the unexpended and unobligated portion of the \$100 million appropriation amended in section 8 to the Railbelt Energy fund.
- Section 11. Makes clear that no new funds are appropriated in this Act, and that obligations, encumbrances and expenditures incurred against appropriations amended or repealed are legal.

Section 12. States that appropriations made here are capital and do not lapse at the end of the fiscal year.

Section 13. Effective date for the sections appropriating money that has had encumbrances made against them.

Section 14. Makes the Act effective on the creation of the Railbelt Energy Fund (HB 699)

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 25, 1986

SUBJECT: Railbelt energy fund
(CSHB 477 (Loans) and HB 699)

TO: Representative John Sund
Chairman, House Special Committee on Loans

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

Enclosed is the draft CSHB 477 (Loans) you requested. Sections 4, 8, and 10 appropriate money to the Railbelt energy fund. That fund would be created under HB 699, which states that the legislature may appropriate money from the fund to assist in meeting Railbelt energy needs.

There is a question concerning how the constitutional prohibition against dedication of funds applies to the Railbelt energy fund. Article IX, Section 7 of the Alaska Constitution states

DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska. (Section 15 establishes the permanent fund.)

If a strict interpretation of the prohibition in this section is taken, the legislature may not limit the future use of money by an appropriation to a special fund. A more relaxed reading of the section would find that the appropriation by the legislature serves to meet the constitutional objective and the amount appropriated loses its status as "proceeds of any state tax or license." It would retain any limit as to use imposed by the appropriation. Of

Representative John Sund
Page 2
March 25, 1986

course, a future legislature could repeal the restrictive purpose and appropriate the money for any purpose it wished, since one legislature may not bind another.

In State v. Alex, 646 P.2d 203, at 210, (Alaska 1982), the Alaska Supreme Court discusses the purpose of the amendment that changed the wording of the constitutional section from prohibiting the dedication of "all revenues" to the present language prohibiting the dedication of "proceeds of any state tax or license." The court noted

The committee's spokesman stated that the purpose of the proposed amendment was to allow for the setting up of certain special funds, such as sinking funds for the repayment of bonds, but to prohibit the earmarking of any special tax to that sinking fund. Thus, the change did not seek to exempt some sources of revenue from the prohibition, but was intended instead to allow necessary dedication of funds once they were received and placed in the general fund. Review of the convention discussion shows that the amendment was not intended to limit the prohibition of earmarking. (Citations omitted)

The examples that support that dedication after receipt include retirement contributions and the proceeds of bond sales. It is not clear whether the appropriation for the Railbelt energy fund would receive similar treatment by the court.

In an opinion issued November 30, 1982, the attorney general discussed the constitutionality of "Dedication of Money to Specific Purposes on a Continuing Basis When Appropriated." The opinion states, at 12 -13,

A question of the proper application of the dedicated funds prohibition arises when money is appropriated to a revolving loan fund or other special reserve fund or account. . . . Special reserve funds involve essentially the setting aside of money for certain specified future needs or conditions which may or may not occur. When this is done, it might be argued that the legislature has made an impermissible dedication with respect to the future use of the money placed in those funds and accounts.

We believe the better view is that the dedication prohibition does not apply to money once appropriated by

Representative John Sund
Page 3
March 25, 1986

the legislature, regardless of whether the appropriation contemplates that the money will be expended. Usually appropriations authorize money to be spent. In other cases, however, the legislature may prefer to establish by general law a continuing loan program and finance it through a one-time appropriation or to reserve money in a special fund or account for future use for limited purposes. A strong argument can be made that money once appropriated, regardless of the mechanism utilized, loses its character as revenue for the purpose of the dedicated funds prohibition because the purpose of the prohibition, i.e., that the legislature retain control over state revenues, has been satisfied. (Citations omitted, emphasis in original.)

If the present legislation is challenged in court, and the court holds that the Railbelt energy fund constitutes an improper dedication of funds, it is likely that the result will be that the Railbelt fund will be treated as an account in the general fund, for the legislature to appropriate from as it sees fit.

If I may be of further assistance, please advise.

TC:mkr
m4:043

Enclosure

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Leg. Fin
084
HB 477

January 15, 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 a bill that will make and amend appropriations to the Alaska Power Authority for the Susitna River Hydroelectric Project, the Bradley Lake Hydroelectric Project, and the Power Cost Equalization Fund.

Last summer, in the case Trustees for Alaska, et al. vs. State of Alaska, 3AN-84-12053 (Civ), the superior court declared that the continuing appropriations for the Susitna River Hydroelectric Project, the Bradley Lake Hydroelectric Project, and the Power Cost Equalization Program were unconstitutional. The appropriations in ch. 96, SLA 1985, and ch. 98, SLA 1985 for those purposes were also held by the court to be invalid. The state was enjoined from spending any money under these continuing appropriations, except in the cases where irreparable harm would result. This bill amends those appropriations to remove the "continuing" provisions and the amount of those continuing appropriations. The July 1, 1984 appropriation is, in each case, left intact (secs. 4 -- 6 of the bill). Sections 1 -- 3 of the bill make appropriations in the same amounts to the Alaska Power Authority for the affected projects. Section 7 of the bill repeals the 1985 appropriations held by the court to be invalid.

I urge your prompt passage of this legislation.

Sincerely,

Bill Sheffield
Bill Sheffield
Governor

1111

Offered: 3/26/86
Referred: Finance

Original sponsor: Rules/governor

Funding Information

General Fund \$271,700,000
Other Funds (271,700,000)

-0-

BY THE HOUSE SPECIAL
COMMITTEE ON STATE LOANS

1 IN THE HOUSE

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CS FOR HOUSE BILL NO. 477 (Loans)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

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FOURTEENTH LEGISLATURE - SECOND SESSION

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A BILL

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For an Act entitled: "An Act making, amending, and repealing appropriations for energy programs; and providing for an effective date."

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13 Hydroelectric Financing - \$50,000,000) is repealed.

14 * Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost
15 Equalization - \$21,700,000) is repealed.

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18 energy development.

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29 FISCAL YEAR] from the general fund to the power cost equalization fund

1 (AS 44.83.162).

2 * Sec. 8. AS 44.83.410 is amended to read:

3 Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR RAILBELT ENERGY
4 DEVELOPMENT [SUSITNA RIVER HYDROELECTRIC PROJECT]. The sum of
5 \$100,000,000 is appropriated on July 1, 1984, [AND THE SUM OF
6 \$200,000,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR]
7 from the general fund to the authority for deposit in the power devel-
8 opment fund (AS 44.83.382) for the purpose of Railbelt energy develop-
9 ment [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR, THE SUSITNA
10 RIVER HYDROELECTRIC PROJECT].

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16 the purpose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZA-
17 TION FOR,] the Bradley Lake hydroelectric project.

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19 appropriation in sec. 8 of this Act is repealed and reappropriated to the
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21 * Sec. 11. Obligations, encumbrances, and expenditures incurred against
22 appropriations repealed or amended in secs. 1 - 3 and 7 - 9 of this Act are
23 considered obligations, encumbrances, and expenditures of the appropria-
24 tions enacted in secs. 4 - 6 of this Act. The appropriations enacted in
25 secs. 4 - 6 and 10 of this Act do not appropriate any more money than was
26 previously appropriated by the appropriations amended or repealed in secs.-
27 1 - 3 and 7 - 9 of this Act.

28 * Sec. 12. The appropriations in secs. 4, 5, and 10 of this Act are for
29 capital projects, and lapse in accordance with AS 37.25.020.

1 * Sec. 13. Sections 1 - 3 and 5 - 9 of this Act are retroactive to
2 July 1, 1985.

3 * Sec. 14. This Act takes effect on the effective date of an Act creat-
4 ing the Railbelt energy fund.

Introduced: 1/15/86
Referred: House Special Committee on
State Loans and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

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11 general fund to the Alaska Power Authority for deposit in the power devel-
12 opment fund (AS 44.83.382) for the purpose of financing the Susitna River
13 hydroelectric project.

14 (b) Up to \$9,100,000 of the amount set out in (a) of this section may
15 be spent in fiscal year 1987 for planning and predesign activities for the
16 Susitna River hydroelectric project.

17 * Sec. 2. The sum of \$50,000,000 is appropriated from the general fund
18 to the Alaska Power Authority for deposit in the power development fund
19 (AS 44.83.382) to finance the Bradley Lake hydroelectric project.

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22 fund (AS 44.83.162).

23 * Sec. 4. AS 44.83.165 is amended to read:

24 Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-
25 IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984 [,
26 AND THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSE-
27 QUENT FISCAL YEAR] from the general fund to the power cost equaliza-
28 tion fund (AS 44.83.162).

29 * Sec. 5. AS 44.83.410 is amended to read:

1 Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR SUSITNA RIVER
2 HYDROELECTRIC PROJECT. The sum of \$100,000,000 is appropriated on
3 July 1, 1984 [AND THE SUM OF \$200,000,000 IS APPROPRIATED ON JULY 1 OF
4 EACH SUBSEQUENT FISCAL YEAR] from the general fund to the authority
5 for deposit in the power development fund (AS 44.83.382) for the pur-
6 pose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR,]
7 the Susitna River hydroelectric project.

8 * Sec. 6. AS 44.83.420 is amended to read:

9 Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE
10 HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on July
11 1, 1984 [OF EACH FISCAL YEAR] from the general fund to the authority
12 for deposit in the power development fund (AS 44.83.382) for the pur-
13 pose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR,]
14 the Bradley Lake hydroelectric project.

15 * Sec. 7. The fiscal year 1986 appropriations made at page 8, line 17
16 and page 9, line 5, ch. 96, SLA 1985; and page 59, line 18, ch. 98, SLA
17 1985 are repealed.

18 * Sec. 8. Obligations, encumbrances, and expenditures incurred against
19 appropriations repealed or amended in this Act are considered obligations,
20 encumbrances, and expenditures of the appropriations enacted in secs. 1 --
21 3 of this Act. The appropriations enacted in secs. 1 -- 3 of this Act do
22 not appropriate any more money than was previously appropriated by the
23 appropriations amended or repealed in secs. 4 -- 7 of this Act.

24 * Sec. 9. The appropriations in secs. 1 and 2 of this Act are for capi-
25 tal projects, and lapse in accordance with AS 37.25.020.

26 * Sec. 10. Sections 1 -- 7 of this Act are retroactive to July 1, 1985.

27 * Sec. 11. This Act takes effect immediately in accordance with AS 01.-
28 10.070(c).