

SCOMM

#50:19

BILL SHEFFIELD  
GOVERNOR



HB 109

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 23, 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 relating to interest rates on and handling repayment of state loans. The bill establishes a fixed, market-tied interest rate for the commercial fisheries, fisheries enhancement, veterans', mining, child care, bulk fuel, alternative technology, residential energy, and historical district loan programs. The rate is based on the United States Treasury rate plus an administrative fee and a subsidy, with an adjustment for risk. The bill also provides that principal repayments on these loans will be returned to the loan funds. Income from the loans, including interest, administrative fees, late fees, and service charges to investors, is paid to the general fund.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield  
Governor

## STATE OF ALASKA 1985 LEGISLATIVE SESSION

## FISCAL NOTE

Revision Date: November 30, 1984

## REQUEST

Bill/Resolution No.: NB109 #1

Title: Relating to Interest Rates  
& handling repayment of State loans

Sponsor: Rules/Governor

Requestor:

Date of Request:

## FISCAL DETAIL

Agency Affected: Commerce &amp; Econ. Dev.

Program Category Affected:

Economic Development

BRU, Program or Subprogram(s) Affected:

Investments

## EXPENDITURES/REVENUES: (Thousands of Dollars)

|                       | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|-----------------------|-------|-------|-------|-------|-------|-------|
| OPERATING             |       |       |       |       |       |       |
| 100 PERSONAL SERVICES |       |       |       |       |       |       |
| 200 TRAVEL            |       |       |       |       |       |       |
| 300 CONTRACTUAL       |       |       |       |       |       |       |
| 400 SUPPLIES          |       |       |       |       |       |       |
| 500 EQUIPMENT         |       |       |       |       |       |       |
| 600 LAND & STRUCTURES |       |       |       |       |       |       |
| 700 GRANTS, CLAIMS    |       |       |       |       |       |       |
| 800 MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING       |       | -0-   | -0-   | -0-   | -0-   | -0-   |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|         |  |     |     |     |     |     |
|---------|--|-----|-----|-----|-----|-----|
| REVENUE |  | -0- | -0- | -0- | -0- | -0- |
|---------|--|-----|-----|-----|-----|-----|

## FUNDING: (Thousands of Dollars)

|               |  |          |           |           |           |           |
|---------------|--|----------|-----------|-----------|-----------|-----------|
| GENERAL FUND  |  | 4218.1   | 4,309.8   | 4,240.5   | 4,140.1   | 3,929.4   |
| FEDERAL FUNDS |  |          |           |           |           |           |
| OTHER         |  | [4218.1] | [4,309.8] | [4,240.5] | [4,140.1] | [3,929.4] |
| TOTAL         |  | -0-      | -0-       | -0-       | -0-       | -0-       |

## POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

ANALYSIS: Attach a separate page if necessary

This fiscal note must be read in conjunction with the fiscal note and backup materials submitted by the Division of Accounting & Collections.

Prepared By: Paul B. Arnoldt, Director

Division: Investments

Phone: 465-2510

Date: 12/4/84

Approved by Commissioner: Richard A. Lyon

Agency: Commerce and Economic Development

Date: 12.5.84

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

7/1/84

0872W113084d

STATE LOAN PROGRAMS  
(Relating to Interest Rates and Handling  
Repayment of State Loans)

LOAN BUDGET

*HB 109 - p 2 of 5*  
*#1*  
\$3,400.0 In FY '86, \$3,400.0 in collected interest payments would be deposited into the Commercial Fishing Loan Fund (AS 16.10.300-.370) used to make new loans. As a result of this bill, interest payments will now be deposited into the General Fund and must be appropriated back to the Commercial Fishing Loan Fund. This procedure removes the question of the constitutionality of dedicated funds, i.e., the direct deposit and use of the interest payments. (See Attorney General Opinion dated November 30, 1982. Subject: The dedicated funds prohibition applied to various funds and accounts. Our file numbers J66-785-81 and J66-649-80.)

\$549.0 In the FY '86 Loan Budget, \$549.0 in collected interest payments was to be deposited into the Alternative Technology and Energy Revolving Loan Fund (AS 45.88.010- .500) and used to make new loans. As a result of this bill, interest payments will now be deposited into the General Fund and must be appropriated back to the Alternative Technology and Energy Revolving Loan Fund in order to meet the budgeted demand for new loans. This procedure also removes the question of the constitutionality of dedicated funds (see the discussion above).

The remaining loan programs administered by the department would accumulate \$1,417.8 in interest payments in FY '86. These programs include the Residential Energy Conservation, Mining, Historical District, Fisheries Enhancement, Child Care and Bulk Fuel loan programs.

Since it is not anticipated that these amounts would be necessary to make new loans under the programs, only the amounts shown for the Commercial Fishing Loan and Alternative Energy Loan programs may be requested for appropriation back to the department in FY '86. Interest from the other loan programs would remain in the General Fund. If utilized, this treatment of the funds would result in a net increase in General Fund revenues of \$1,417.8 in FY '86, in addition to the new revenues generated through market-tied interest rates. At such time as the interest payment becomes necessary to make new loans, requests for reappropriation from the General Fund would be made on an annual basis.

OPERATING BUDGET

NB 109 P 305  
#1

\$68.6 In the FY '86 Operating Budget request, \$68.6 in service fees (late charges, service charges, assumption fees, and mortgage life insurance fees) received under the Veterans' Loan Fund would be appropriated as program receipts to cover the administrative costs involved in processing loan assumptions. As a result of this bill, service fees will now be deposited into the General Fund and will no longer be identified as program receipts. This funding will now be requested as General Funds.

\$200.5 In the FY '86 Operating Budget request, \$200.5 in service fees (service charges and late fees) received under the Commercial Fishing Loan Program would be appropriated as program receipts to cover the administrative costs involved in making new loans under this program. As a result of this bill, these service fees will now be deposited into the General Fund and will no longer be identified as program receipts. This funding will now be requested as General Funds.

Operating Budget impact is assumed to be constant for FY '87-90.

0872W11584c

TITLE OF INCREMENT/DECREMENT:  
FN Relating to Interest Rates and  
handling repayment of State loans.

AGENCY CONTACT/PHONE NUMBER:  
Paul B. Arnoldt, Director  
465-2510

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

LOAN BUDGET: In FY '86, \$3,400.0 in collected interest payments would be deposited into the Commercial Fishing Loan Fund (AS 16.10.300-.370) and used to make new loans. As a result of this bill, interest payments will now be deposited into the General Fund and must be appropriated back to the Commercial Fishing Loan Fund. This procedure removes the question of the constitutionality of dedicated funds, i.e., the direct deposit and use of the interest payments. (See Attorney General Opinion dated November 30, 1982. Subject: The dedicated funds prohibition applied to various funds and accounts. Our file numbers J66-785-81 and J66-649-80.)

In the FY '86 Loan Budget, \$549.0 in collected interest payments was to be deposited into the Alternative Technology and Energy Revolving Loan Fund (AS 45.88.010-.500) and used to make new loans. As a result of this bill interest payments will now be deposited into the General Fund and must be appropriated back to the Alternative Technology and Energy Revolving Loan Fund in order to meet the budgeted demand for new loans. This procedure also removes the question of the constitutionality of dedicated funds (see the discussion above).

The remaining loan programs administered by the department would accumulate \$1,417.8 in interest payments in FY '86. These programs include the Residential Energy Conservation, Mining, Historical District, Fisheries Enhancement, Child Care and Bulk Fuel loan programs.

Since it is not anticipated that these amounts would be necessary to make new loans under the programs, only the amounts shown for the Commercial Fishing Loan and Alternative Energy Loan programs may be requested for appropriation back to the department in FY '86. Interest from the other loan programs would remain in the General Fund. If utilized, this

| CODE                    | EXPENDITURE BY OBJECT  | AGENCY REQ. | GOV'S REQ. |
|-------------------------|------------------------|-------------|------------|
| 100                     | Personal Services      |             |            |
| 200                     | Travel                 |             |            |
| 300                     | Contractual Services   |             |            |
| 400                     | Supplies               |             |            |
| 500                     | Equipment              |             |            |
| 600                     | Lands, Buildings, Etc. |             |            |
| 700                     | Grants, Claims, Etc.   |             |            |
| 800                     | Miscellaneous          |             |            |
| TOTAL                   |                        |             |            |
| I-A Transfer (NON-ADD)  |                        |             |            |
| 1002                    | Federal Receipts       |             |            |
| 1003                    | General Fund Match     |             |            |
| 1004                    | General Fund           | 4,218.1     |            |
| 1005                    | I-A Receipts           |             |            |
| 1028                    | Program Receipts       | [4,218.1]   |            |
|                         | Other                  |             |            |
| POSITION<br>INFORMATION | PFT                    | -0-         |            |
|                         | PPT                    |             |            |
|                         | Non Permanent          |             |            |
|                         | Staff Months           |             |            |

- ☐ Enhance Existing Service  
Compared to FY 85
- ☒ New Service Compared to FY 85
- ☐ Continuation of FY 85 Service  
Level

☐ Formula  
Program

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter \_\_\_\_\_ SLA \_\_\_\_\_ Page/Line \_\_\_\_\_

**C5** INCREMENT/DECREMENT  
REQUEST

Agency Priority \_\_\_\_\_ of \_\_\_\_\_

(6/84)-c5

AGENCY Commerce and Economic Development

PROGRAM Economic Development

BRU Investments

COMPONENT Administration

PROJECT \_\_\_\_\_

*NB 109 #1*

PAGE 4 OF 5

REVISED DATE \_\_\_\_\_

**FY 86**

treatment of the funds would result in a net increase in General Fund revenues of \$1,417.8 in FY '86, in addition to the new revenues generated through market-tied interest rates. At such time as the interest payment becomes necessary to make new loans, requests for reappropriation from the General Fund would be made on an annual basis.

OPERATING BUDGET: In the FY '86 Operating Budget request, \$68.6 in service fees (late charges, service charges, assumption fees, and mortgage life insurance fees) received under the Veterans' Loan Fund would be appropriated as program receipts to cover the administrative costs involved in processing loan assumptions. As a result of this bill, service fees will now be deposited into the General Fund and will no longer be identified as program receipts. This funding will now be requested as General Funds.

In the FY '86 Operating Budget request, \$200.5 in service fees (service charges and late fees) received under the Commercial Fishing Loan Program would be appropriated as program receipts to cover the administrative costs involved in making new loans under this program. As a result of this bill, these service fees will now be deposited into the General Fund and will no longer be identified as program receipts. This funding will now be requested as General Funds.

Operating Budget impact is assumed to be constant for FY '87-90.

☐ **ADDITIONAL  
EXPLANATION  
FORM**

AGENCY Commerce and Economic Development

PROGRAM Economic Development

BRU Investments

COMPONENT Administration

*14B 10977*  
PAGE 8.5 OF 85

REVISED DATE \_\_\_\_\_

**FY 86**

## STATE OF ALASKA 1985 LEGISLATIVE SESSION

## FISCAL NOTE

Revision Date: November 30, 1984

## REQUEST

Bill/Resolution No.: NB109, #2  
 Title: Interest rates on and handling  
repayment of State loans by DCED  
 Sponsor: Rules  
 Requestor: Governor  
 Date of Request: \_\_\_\_\_

## FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.  
 Program Category Affected: Economic Development  
 BRU, Program or Subprogram(s) Affected: Accounting & Collections

## EXPENDITURES/REVENUES: (Thousands of Dollars)

|                       | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|-----------------------|-------|-------|-------|-------|-------|-------|
| OPERATING             |       |       |       |       |       |       |
| 100 PERSONAL SERVICES |       |       |       |       |       |       |
| 200 TRAVEL            |       |       |       |       |       |       |
| 300 CONTRACTUAL       |       |       |       |       |       |       |
| 400 SUPPLIES          |       |       |       |       |       |       |
| 500 EQUIPMENT         |       |       |       |       |       |       |
| 600 LAND & STRUCTURES |       |       |       |       |       |       |
| 700 GRANTS, CLAIMS    |       |       |       |       |       |       |
| 800 MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING       |       | -0-   | -0-   | -0-   | -0-   | -0-   |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|         |  |   |       |         |         |         |
|---------|--|---|-------|---------|---------|---------|
| REVENUE |  | 0 | 721.4 | 1,125.0 | 1,486.2 | 1,911.9 |
|---------|--|---|-------|---------|---------|---------|

## FUNDING: (Thousands of Dollars)

|                 |  |         |     |     |     |     |
|-----------------|--|---------|-----|-----|-----|-----|
| GENERAL FUND    |  | 427.4   | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS   |  |         |     |     |     |     |
| OTHER 1035 VRLF |  | [427.4] | -0- | -0- | -0- | -0- |
| TOTAL           |  | -0-     | -0- | -0- | -0- | -0- |

## POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

## ANALYSIS: Attach a separate page if necessary

Revenue: Please see attached for a summary of revenue impacts by loan fund.

Funding: The portion of this BRU's operating expenses formerly funded by restricted interagency receipts (budgeted VRLF service fees) must be funded by the general fund since this legislation will cause these service fees to be deposited into the general fund.

Prepared By: Margaret I. Hamley, Director Phone: 465-2555  
 Division: Accounting & Collections Date: 12-4-84

Approved by Commissioner: Richard A. Lyon Date: 12.5.84  
 Agency: Commerce and Economic Development

## Distribution (by Agency preparing fiscal note):

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

7/1/84

1009W113084c

ANALYSIS - REVENUE  
An Act Relating to Interest Rates on and Handling Repayment of State Loans by DCED

|                                       | GF          | Veterans | Alter-<br>native<br>Tech.<br>Energy | Bulk<br>Fuel | Child<br>Care | Commercial<br>Fish | Fish<br>Enhance-<br>ment | Historic<br>District | Mining    | REC     | TOTAL     |
|---------------------------------------|-------------|----------|-------------------------------------|--------------|---------------|--------------------|--------------------------|----------------------|-----------|---------|-----------|
| FY '86 Impact From:                   |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| (1) Loans closed prior to 7/1/85      | 7,133.8     | [999.4]  | [549.0]                             | [0.0]        | [42.1]        | [4,167.6]          | [0.0]                    | [17.7]               | [1,134.4] | [223.6] | 0.0       |
| (2) Proposed Cash Flow, New Loans     |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| Principal Repayments                  | -           | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | -         |
| Net Interest Earnings                 | -           | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | -         |
| Risk Factor Earnings                  | -           | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | -         |
| Administrative Fee                    | -           | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | -         |
| (3) Less Present Cash Flow, New Loans |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| [Principal Repayments]                | -           | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | -         |
| [Interest Earnings]                   | -           | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | -         |
| NET IMPACT FY '86                     | \$ 7,133.8  | [999.4]  | [549.0]                             | [0.0]        | [42.1]        | [4,167.6]          | [0.0]                    | [17.7]               | [1,134.4] | [223.6] | 0.0       |
| FY '87 Impact From:                   |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| (1) Loans closed prior to 7/1/85      | 6,496.5     | [925.8]  | [513.4]                             | [0.0]        | [37.7]        | [3,844.0]          | [120.7]                  | [17.4]               | [844.0]   | [193.5] | 0.0       |
| (2) Proposed Cash Flow, New Loans     |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| Principal Repayments                  | -           | -        | 223.2                               | -            | 5.8           | 826.5              | -                        | .5                   | 220.4     | 186.4   | 1462.8    |
| Net Interest Earnings                 | 3,576.1     | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 3,576.1   |
| Risk Factor Earnings                  | 447.3       | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 447.3     |
| Administrative Fee                    | 268.4       | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 268.4     |
| (3) Less Present Cash Flow, New Loans |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| [Principal Repayments]                | -           | -        | [320.4]                             | -            | [10.7]        | [895.5]            | -                        | [1.4]                | [245.2]   | [193.7] | [1,666.9] |
| [Interest Earnings]                   | -           | -        | [293.4]                             | -            | [46.5]        | [2,268.5]          | -                        | [16.8]               | [575.5]   | [165.6] | [3,366.3] |
| NET IMPACT FY '87                     | \$ 10,788.3 | [925.8]  | [904.0]                             | -            | [89.1]        | [6,181.5]          | [120.7]                  | [35.1]               | [1,444.3] | [366.4] | 721.4     |

LB 109, no 2 - page 3 of 4

Page 2 of 3

ANALYSIS - REVENUE  
An Act Relating to Interest Rates on and Handling Repayment of State Loans by DCED

|                                       | GF          | Veterans | Alter-<br>native<br>Tech.<br>Energy | Bulk<br>Fuel | Child<br>Care | Commercial<br>Fish | Fish<br>Enhance-<br>ment | Historic<br>District | Mining    | REC     | TOTAL     |
|---------------------------------------|-------------|----------|-------------------------------------|--------------|---------------|--------------------|--------------------------|----------------------|-----------|---------|-----------|
| FY '88 Fiscal Impact From:            |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| (1) Loans closed prior to 7/1/85      | 6,010.7     | [831.1]  | [485.0]                             | [0.0]        | [32.9]        | [3,481.8]          | [401.2]                  | [17.0]               | [599.2]   | [162.5] | 0.0       |
| (2) Proposed Cash Flow, New Loans     |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| Principal Repayments                  | -           | -        | 472.3                               | -            | 12.3          | 1,759.5            | -                        | 1.2                  | 469.2     | 396.4   | 3,110.9   |
| Net Interest Earnings                 | 5743.5      | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 5,743.5   |
| Risk Factor Earnings                  | 718.4       | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 718.4     |
| Administrative Fee                    | 431.1       | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 431.1     |
| (3) Less Present Cash Flow, New Loans |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| [Principal Repayments]                | -           | -        | [652.9]                             | -            | [22.2]        | [1,891.5]          | -                        | [2.9]                | [516.4]   | [408.1] | [3,494.0] |
| [Interest Earnings]                   | -           | -        | [464.7]                             | -            | [76.4]        | [3,644.9]          | -                        | [27.8]               | [923.8]   | [247.3] | [5,384.9] |
| NET IMPACT FY '88                     | \$ 12,903.7 | [831.1]  | [1,130.3]                           | [0.0]        | [119.2]       | [7,258.7]          | [401.2]                  | [46.5]               | [1,570.2] | [421.5] | 1,125.0   |
| FY '89 Fiscal Impact From:            |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| (1) Loans closed prior to 7/1/85      | 5,780.2     | [715.4]  | [450.9]                             | [0.0]        | [27.8]        | [3,073.6]          | [955.5]                  | [16.6]               | [409.9]   | [130.5] | 0.0       |
| (2) Proposed Cash Flow, New Loans     |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| Principal Repayments                  | -           | -        | 708.6                               | -            | 19.6          | 2,809.5            | -                        | 1.8                  | 749.2     | 633.0   | 4,921.7   |
| Net Interest Earnings                 | 7,730.3     | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 7,730.3   |
| Risk Factor Earnings                  | 966.9       | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 966.9     |
| Administrative Fee                    | 580.1       | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 580.1     |
| (3) Less Present Cash Flow, New Loans |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| [Principal Repayments]                | -           | -        | [1,002.5]                           | -            | [34.5]        | [2,995.5]          | -                        | [4.4]                | [816.0]   | [645.6] | [5,498.5] |
| [Interest Earnings]                   | -           | -        | [618.2]                             | -            | [105.5]       | [4,905.3]          | -                        | [38.7]               | [1,242.2] | [304.4] | [7,214.3] |
| NET IMPACT FY '89                     | \$ 15,057.5 | [715.4]  | [1,363.0]                           | [0.0]        | [148.2]       | [8,164.9]          | [955.5]                  | [57.9]               | [1,718.9] | [447.5] | 1,486.2   |

0915W113084c

HB109, No. 2 - page 4 of 4

Page 3 of 3

ANALYSIS - REVENUE  
An Act Relating to Interest Rates on and Handling Repayment of State Loans by DCED

|                                          | GF          | Veterans | Alter-<br>native<br>Tech.<br>Energy | Bulk<br>Fuel | Child<br>Care | Commercial<br>Fish | Fish<br>Enhance-<br>ment | Historic<br>District | Mining    | Rec.    | TOTAL     |
|------------------------------------------|-------------|----------|-------------------------------------|--------------|---------------|--------------------|--------------------------|----------------------|-----------|---------|-----------|
| <u>FY '90 Fiscal Impact From:</u>        |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| (1) Loans closed<br>prior to 7/1/85      | 5,314.9     | [650.0]  | [416.8]                             | [0.0]        | [23.2]        | [2,632.2]          | [1,201.6]                | [16.1]               | [277.4]   | [97.6]  | 0.0       |
| (2) Proposed Cash Flow,<br>New Loans     |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| Principal Repayments                     | -           | -        | 1,027.7                             | -            | 27.9          | 3,991.5            | -                        | 2.6                  | 1,094.4   | 899.5   | 7,043.6   |
| Net Interest Earnings                    | 9,505.5     | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 9,505.5   |
| Risk Factor Earnings                     | 1188.8      | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 1,188.8   |
| Administrative Fee                       | 713.2       | -        | -                                   | -            | -             | -                  | -                        | -                    | -         | -       | 713.2     |
| (3) Less Present Cash<br>Flow, New Loans |             |          |                                     |              |               |                    |                          |                      |           |         |           |
| • [Principal Recovery]                   | -           | -        | [1,370.5]                           | -            | [47.7]        | [4,222.5]          | -                        | [8.1]                | [1,146.8] | [908.6] | [7,704.2] |
| [Interest Earnings]                      | -           | -        | [752.8]                             | -            | [133.7]       | [6,037.0]          | -                        | [49.4]               | [1,527.6] | [334.5] | [8,835.0] |
| • NET IMPACT FY '90                      | \$ 16,722.4 | [650.0]  | [1,512.4]                           | -            | [176.7]       | [8,900.2]          | [1,201.6]                | [71.0]               | [1,857.4] | [441.2] | 1,911.9   |

• 0915W113084c

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

March 27, 1985

Honorable John Sund, Chairman  
House Special Committee on State Loans  
Pouch V  
Juneau, Alaska 99811

Dear Representative Sund:

I would like to encourage your favorable consideration of HB 109 which establishes a market-tied interest rate for loan programs within the Department of Commerce and Economic Development.

At the time the various loan programs were established, the Legislature set the interest rates at or near the market rate. Over time, the statutorily set interest rates for most programs have changed very little while the market rates have risen considerably. HB 109 would provide a way of returning to the policy that was intended at the inception of each loan program, i.e., set the interest rate in some relation to the market and maintain that relationship through time by tying the rate to the market. In other words, a greater or lesser subsidy can be provided for any given loan program, according to social need, but the amount of the subsidy will remain static rather than having the interest rate remain static.

Besides providing a reasoned approach to financial management, an additional benefit will derive from a market-tied interest rate. The market-tied rate should even out the fluctuations in demand for certain loan programs. A rising market interest rate won't create an increased subsidy and, consequently, increased pressure on loan programs. This will stabilize the loan programs and facilitate planning for budgeting and administration of the programs.

HB 109 contains two further provisions which are important to financial management. The first is the authority to charge an administrative fee (the fee is built into the interest rate formula). This fee will eventually work so that the beneficiaries of loans will pay the administrative costs of the program. An average of 1,338 new loans are made each year. Currently, all residents of the State must assume the administrative costs for the recipients of these loans. An administrative fee represents a fair cost of business for loan recipients.

March 27, 1985

Secondly, HB 109 provides that only the principal from loan repayments returns to the loan fund to provide capital for new loans. The interest earnings are deposited in the general fund, providing additional income to the State. The revised language complies with concerns over dedicated funds. This will require the department to seek general fund appropriations rather than program receipts in order to meet projected loan demand. In addition, our operating budget will be funded solely by general fund appropriations rather than partly by program receipts. While the net effect of these two provisions is zero, it is critical that the fiscal note be passed with the bill so that the department will have the operating resources to administer the programs and loan funds to satisfy loan demand.

With the adoption of HB 109, the State would have a program that provides a source of funds for certain kinds of loans, subsidized according to social need, and bears some relation to market trends. I ask your careful consideration of this bill and will make myself available to answer your questions and concerns.

Sincerely,



F. Terry Elder  
Deputy Commissioner

FTE/sa0681s  
32785b

# STATE OF ALASKA

## **DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT** DIVISION OF INVESTMENTS

**BILL SHEFFIELD, GOVERNOR**

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2510

March 1, 1985

The Honorable John Sund, Chairman  
House Special Committee on Loans  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Representative Sund:

In follow-up to this department's testimony on HB 109 (market-tied interest rates), I would like to provide the House Special Committee on Loans with the following historical information relating to interest rates. This data should assist the committee in determining the subsidies that should be assigned to the market-tied interest rate formulas contained in HB 109.

For each of the loan programs affected by HB 109, I have identified the date and interest rate that was in effect when the loan program first became law as well as each time the interest rate was amended by the Legislature. This information is listed under the headings of Effective Date and Statutory Rate.

Under the heading of Average Loan Term, I have indicated the average length of time that loans are made for each of the loan programs. This information is necessary so that the committee can see what the corresponding market-tied interest rate would have been for a comparable loan term. The figures contained under the heading of Market-tied Rate is the six-month average interest rate that would have been calculated under HB 109. This figure does not include any adjustments for administrative fees, risks or subsidies as provided for under HB 109.

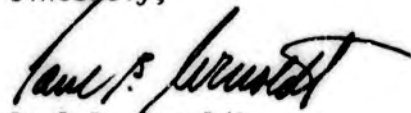
| <u>LOAN PROGRAM</u>   | <u>EFFECTIVE<br/>DATE</u> | <u>STATUTORY<br/>RATE</u>         | <u>AVERAGE<br/>LOAN TERM</u> | <u>MARKET-<br/>TIED RATE</u> |
|-----------------------|---------------------------|-----------------------------------|------------------------------|------------------------------|
| Commercial Fishing    | 6-20-72                   | 7.00%                             | 10 yrs                       | 6.10%                        |
| AS 16.10.300-370      | 6-10-79                   | 9.50%                             | 10 yrs                       | 9.13%                        |
|                       | 6-25-82                   | 10.50%                            | 10 yrs                       | 14.02%                       |
| Fisheries Enhancement | 9-16-76                   | 8.00%                             | 20 yrs                       | 7.96%                        |
| AS 16.10.500-560      | 6-10-79                   | 9.50%                             | 30 yrs                       | 9.02%                        |
| Child Care            | 6-10-76                   | 6.00%                             | 20 yrs                       | 7.91%                        |
| AS 44.33.240-275      | 7-01-79                   | 7.00%                             | 20 yrs                       | 9.06%                        |
| Alternative Energy    | 7-13-78                   | 5.00%                             | 10 yrs                       | 8.17%                        |
| AS 45.88.010-500      | 6-25-82                   | 5% 1st \$15,000<br>15%   \$15,000 | 10 yrs                       | 14.02%                       |
| Residential Energy    | 7-01-80                   | 5.00%                             | 5 yrs                        | 11.30%                       |
| Conservation          | 1-01-84                   | 11.44%                            | 5 yrs                        | 11.44%                       |
| AS 45.89.010-500      |                           |                                   |                              |                              |
| Bulk Fuel             | 6-13-80                   | 12.11%                            | 1 yr                         | 12.11%                       |
| AS 45.87.010-500      |                           |                                   |                              |                              |
| Mining                | 6-21-80                   | 10.00%                            | 10 yrs                       | 9.13%                        |
| AS 27.09.010-060      |                           |                                   |                              |                              |
| Historical District   | 9-16-77                   | 6.50%                             | 30 yrs                       | 7.70%                        |
| AS 45.98.010-070      | 6-01-79                   | 7.50%                             | 30 yrs                       | 9.02%                        |
| Veterans' Loans       | 4-08-65                   | 5.00%                             | 10 yrs                       | 4.17%                        |
|                       |                           |                                   | 20 yrs                       | 4.18%                        |
|                       |                           |                                   | 30 yrs                       | 4.19%                        |
|                       | 10-07-67                  | 6.00%                             | 10 yrs                       | 4.91%                        |
|                       |                           |                                   | 20 yrs                       | 4.88%                        |
|                       |                           |                                   | 30 yrs                       | 4.86%                        |

| <u>LOAN PROGRAM</u>          | <u>EFFECTIVE<br/>DATE</u> | <u>STATUTORY<br/>RATE</u>                | <u>AVERAGE<br/>LOAN TERM</u> | <u>MARKET-<br/>TIED RATE</u> |
|------------------------------|---------------------------|------------------------------------------|------------------------------|------------------------------|
| Veterans' Loans<br>Continued |                           |                                          |                              |                              |
|                              | 5-07-69                   | 8.00%                                    | 10 yrs                       | 5.90%                        |
|                              |                           |                                          | 20 yrs                       | 5.86%                        |
|                              |                           |                                          | 30 yrs                       | 5.83%                        |
|                              | 5-27-71                   | Federal VA<br>Rate (7% as<br>of 5-27-71) | 10 yrs                       | 6.24%                        |
|                              |                           |                                          | 20 yrs                       | 6.19%                        |
|                              |                           |                                          | 30 yrs                       | 6.19%                        |
|                              | 6-01-79                   | 9.50%                                    | 10 yrs                       | 9.13%                        |
|                              |                           |                                          | 20 yrs                       | 9.05%                        |
|                              |                           |                                          | 30 yrs                       | 9.02%                        |

Please remember that under the fisheries enhancement loan program there is forgiveness of interest and deferment of principal for between six and ten years. Under the mining loan program, principal is deferred until the end of the second mining season and under the bulk fuel loan program, by regulation, no interest is charged on the first loan, 5.00% is charged on the second loan, and a market rate is charged on the third and subsequent loans. These factors should be considered when establishing the subsidy under the market-tied interest rate formulas.

If I can be of further assistance to the committee regarding HB 109, please let me know.

Sincerely,



Paul B. Arnoldt  
Director

PBA/1t0463C  
030185a

cc: Terry Elder, Deputy Commissioner

**STATISTICS ON DCED LOAN PROGRAMS**  
(Thousands of Dollars)

December 31, 1984

|                                                         | Veterans  | Small<br>Business | Commercial<br>Fish | Tourism  | Bulk<br>Fuel | Child<br>Care | Hist<br>Dist | Mining   | Alternate<br>Energy | Resid.<br>Energy | Fish<br>Enhance | Power<br>Dev. | Water<br>Resource | Total     |
|---------------------------------------------------------|-----------|-------------------|--------------------|----------|--------------|---------------|--------------|----------|---------------------|------------------|-----------------|---------------|-------------------|-----------|
| <b>Commitments</b>                                      |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Total No. Loans                                         |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Committed FY '72-85                                     | 7,718     | 1,338             | 2,636              | 59       | 147          | 42            | 9            | 65       | 2,679               | 2,161            | 97              | 2             | 5                 | 16,958    |
| Total Dollar Amount                                     |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Committed FY '72-85                                     | 371,795.2 | 202,529.3         | 153,380.0          | 29,874.7 | 5,465.8      | 1,320.4       | 667.7        | 28,160.0 | 17,038.3            | 8,132.4          | 37,084.1        | 76,165.0      | 2,500.0           | 934,112.9 |
| Total No. Loans                                         |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Committed FY '84                                        | -0-       | -0-               | 240                | -0-      | 51           | 11            | 1            | 14       | 392                 | 322              | 18              | *             | -0-               | 1,049     |
| Total Dollar Amount                                     |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Committed FY '84                                        | -0-       | -0-               | 13,914.8           | -0-      | 1,979.5      | 391.6         | 100.0        | 3,863.2  | 3,509.5             | 1,280.0          | 6,775.8         | *             | -0-               | 31,814.4  |
| Total No. Loans                                         |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Committed FY '85                                        | -0-       | -0-               | 89                 | -0-      | 27           | 6             | -0-          | 2        | 171                 | 147              | 9               | 2             | -0-               | 453       |
| Total Dollar Amount                                     |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Committed FY '85                                        | -0-       | -0-               | 5,131.4            | -0-      | 946.1        | 276.2         | -0-          | 1,128.1  | 1,291.6             | 385.6            | 3,780.1         | 76,165.0      | -0-               | 89,104.1  |
| <b>Appropriations</b>                                   |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Appropriation FY '85                                    | -0-       | -0-               | 3,500.0            | -0-      | -0-          | -0-           | -0-          | -0-      | 1,000.0             | -0-              | 5,000.0         | 210,000.0     | -0-               | 219,500.0 |
| <b>Disbursements - FY '85</b>                           |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| No. of Loans Through<br>12/31/84                        | -0-       | -0-               | 88                 | -0-      | 26           | 5             | -0-          | 2        | 169                 | 147              | 7               | 2             | -0-               | 446       |
| Dollars Through<br>12/31/84                             | -0-       | -0-               | 4,597.0            | -0-      | 950.0        | 266.2         | -0-          | 1,128.2  | 1,266.6             | 385.6            | 3,708.1         | 76,165.0      | -0-               | 88,466.7  |
| <b>Loans Outstanding</b>                                |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| <b>Owned by Fund</b>                                    |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Total No. Loans                                         |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Outstanding                                             | 135       | 272               | 990                | 5        | 49           | 25            | 3            | 48       | 1,940               | 1,570            | 73              | 2             | 1                 | 5,113     |
| Total Principal                                         |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Amount Outstanding                                      | 6,142.8   | 34,098.1          | 48,266.5           | 3,258.2  | 1,637.1      | 871.6         | 340.4        | 19,180.1 | 11,989.2            | 5,011.9          | 29,381.9        | 76,165.0      | 909.8             | 237,252.6 |
| Average Loan Amount                                     |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Outstanding                                             | 45.5      | 125.4             | 48.8               | 651.6    | 33.4         | 34.9          | 113.5        | 399.6    | 6.2                 | 3.2              | 402.5           | 38,082.5      | 909.8             | 46.4      |
| <b>Serviced for the<br/>Dept. of Revenue</b>            |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Total No. Loans                                         |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Outstanding                                             | 1,848     | 233               | 773                | 14       | N/A          | 4             | 3            | N/A      | N/A                 | N/A              | 14              | N/A           | N/A               | 2,889     |
| Total Principal                                         |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Amount Outstanding                                      | 83,607.4  | 19,413.9          | 30,477.5           | 2,536.9  |              | 19.7          | 125.1        |          |                     |                  | 6,804.2         |               |                   | 142,984.7 |
| Average Loan Amount                                     |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| Outstanding                                             | 45.2      | 83.3              | 39.4               | 181.2    |              | 4.9           | 41.7         |          |                     |                  | 486.0           |               |                   | 49.5      |
| <b>Applications</b>                                     |           |                   |                    |          |              |               |              |          |                     |                  |                 |               |                   |           |
| No. of Applications<br>for New Loans Received<br>FY '85 | N/A       | N/A               | 182                | N/A      | 25           | 9             | 1            | 2        | 179                 | 178              | 6               | 2             | N/A               | 584       |
| No. of Assumption<br>Applications FY '85                | 31        | 5                 | -0-                | -0-      | -0-          | -0-           | -0-          | -0-      | -0-                 | -0-              | -0-             | N/A           | -0-               | 36        |

\*Created effective July 1, 1984

Prepared by: Division of Accounting and Collections, 465-2555

12/18/84

1983-  
1984-  
ADMINISTRATION  
LEVEL 30%

HYDRO  
(PROVIDE  
1985)

HB 109: An Act relating to interest rates on and handling repayment of State loans; and providing for an effective date.

SEC. 23  
OF THE BILL  
ACTIVE ✓

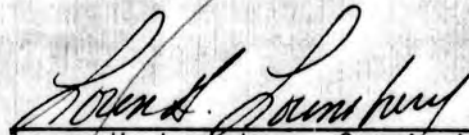
Department Position: Support

This bill would allow the State to fix the amount of subsidy that would be offered through the following loan programs: Commercial Fishing, Fisheries Enhancement, Veterans, Mining, Child Care, Bulk Fuel, Alternative Technology and Energy, Residential Energy Conservation, Historical District and Fishermen's Mortgage and Note. House Bill number 109 accomplishes this by tying the interest rate charged under these programs to the rates prevailing in the marketplace at a given time. In so doing, the subsidy would remain constant regardless of the movements of the market rates.

The United States treasury rate was selected as the standard because:

1. it is the rate most commonly used in the financial industry as the benchmark by which risk is evaluated;
2. the rates are readily available from the federal government; and
3. the varying terms of the U.S. treasury rates can easily be matched to the terms of the loans made under the various loan programs.

This bill also provides that the repayments of interest, service charges, late fees, assumption fees and administrative fees from these loan programs be paid over to the Department of Revenue for deposit in the General Fund. The Legislature may then appropriate, from the General Fund, an amount to the Department of Commerce and Economic Development to fund operating expenses of the loan programs. This procedure avoids problems from the constitutional prohibition against dedicated funds.

  
Loren H. Louksbury, Commissioner

Date: 2/7/85

SECTIONAL ANALYSIS -- HB 109  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

INTEREST RATES  
MOVES OVER  
TIME

Section 1.

This section would replace the current fixed interest rate of 10.5 percent for loans under the Commercial Fishing Loan Act, AS 16.10.300-16.10.370, with an interest rate that is established at the time the loan is made. The new interest rate would be based on a six-month average for U.S. Treasury bills of comparable duration and adjusted for risk, administration cost and the subsidy provided by the State. Interest rates would not change during the term of the loan. Existing loans would not be affected.

The proposed language represents an effort to introduce two important concepts to the administration of State loan programs. First, interest on State loans would vary with overall lending market rates. The degree of subsidy offered by the State through the affected loan programs, in this case, the commercial fishing loan program, would not depend on the interest rates prevailing in the marketplace at a given time. Rather, the subsidy, in the form of reduced interest rates, would remain constant to the borrower at 300 basis points or three percentage points. Second, the proposed change reflects an effort to quantify the risk to the State in making loans under the various programs, the cost of administration and the total State subsidy. Should any of these measures change over time, or if the Legislature should want to change the degree of subsidy, this can easily be accomplished. The department intends to use monthly averages of interest rates for U.S. Treasury securities of from one to thirty years' duration, updated weekly in a publication of the Federal Reserve System, "Selected Interest Rates." Interest rates for loan terms not reflected in this data would be interpolated from the nearest two figures available. An example of this monthly calculation and its effect on a typical commercial fishing loan is attached.

Section 2.

For fishermen who apply jointly under the commercial fishing loan program for a gear or vessel loan, this section would conform the language to the changes made in Section 1 (Market-Tied Interest Rates). It is identical in scope and effect to that section.

Section 3.

The second major change proposed by the bill is shown in this section. The new language provides that repayment of principal under the Commercial Fishing Loans Act will be made to the fund established for that purpose but interest, service charges, late fees, assumption fees and administrative fees will be paid over to the Department of Revenue for deposit in the General Fund. The Legislature may then appropriate

from the General Fund an amount to the Department of Commerce and Economic Development to fund operating expenses of the loan programs. The procedure avoids problems from the constitutional prohibition against dedicated funds. See the opinion of the Attorney General dated November 30, 1982.

*Alape to*  
*COST*  
*DIVISION -*

Section 4.

The section is identical to Section 1 (Market-Tied Interest Rates) but the changes are made to the Fisheries Enhancement Loan Program, AS 16.10.500 - 16.10.620. The present interest rate for loans under this program is 9.5 percent.

Section 5.

The section is identical to Section 3 (General Fund Deposits) but the changes are made to the Fisheries Enhancement Loan Program, AS 16.10.500 - 16.10.620.

Sections 6, 7 & 9.

The changes proposed in these sections are identical to those proposed in Section 1 (Market-Tied Interest Rates) but are made to the Veterans' Loan programs, AS 26.15.010 - 26.15.170. The present interest rate is 9.5 percent.

Sections 8 & 10.

These sections are identical in effect to Section 3 (General Fund Deposits) but the changes are made to the Veterans' Loan programs, AS 26.15.010 - 26.15.170.

Section 11.

The section is identical to Section 3 (General Fund Deposits) but the changes are made to the Mining Loan program, AS 27.09.010 - 27.09.060.

Section 12.

The section is identical to Section 1 (Market-Tied Interest Rates) but the changes are made to the Mining Loan program, AS 27.09.010 - 27.09.060. The present interest rate is 9.5 percent.

Section 13.

The section clarifies that the Child Care Facility Revolving Loan Fund, AS 44.33.240 - 44.33.275, consists of legislative appropriations and repaid principal amounts and that these funds do not lapse at the end of a fiscal year.

3%

#### Section 14.

The section is identical to Sections 1 (Market-Tied Interest Rates) and 3 (General Fund Deposits) but the changes are made to the Child Care Facility Revolving Loan Fund, AS 44.33.240 - 44.33.275. The present interest rate is 7 percent.

#### Section 15.

The section is generally these same in effect as Section 1 (Market-Tied Interest Rates) but the changes are made to the Bulk Fuel Revolving Loan program, AS 45.87.010 - 45.87.500. The present interest rates under this program are tied to an average of municipal bond yields. The change, therefore, is largely for the purposes of uniformity. The average of the municipal bond yields is presently 10.52 percent. The commissioner retains the authority to reduce or eliminate interest charges for communities facing hardship.

The section also includes the changes with regard to principal and other repayments found in Section 3 (General Fund Deposits).

#### Section 16.

The section is identical to Section 3 (General Fund Deposits) but the changes are made to the Alternative Technology and Energy program, AS 45.88.010 - 45.88.500.

#### Section 17.

The section is identical to Section 1 (Market-Tied Interest Rates) but the changes are made to the Alternative Technology and Energy program, AS 45.88.010 - 45.88.500.

#### Section 18.

The section is generally the same in effect as Section 1 (Market-Tied Interest Rates) but the changes are made to the Residential Energy Conservation Loan program AS 45.89.010 - 45.89.500. As in the case of the Bulk Fuel Revolving Loan program, the interest rates under this program are tied to an average of municipal bond yields. Presently that rate is 10.52 percent. Again, the change is largely for the purposes of uniformity.

#### Section 19.

The section is identical to Section 3 (General Fund Deposits) but the changes are made to the Residential Energy Conservation Fund program, AS 45.89.010 - 45.89.500.

#### Section 20.

The section includes provisions identical to those contained in Section 3 (General Fund Deposits) but the changes are made to the Historical District Loan Fund, AS 45.98.010 - 45.98.070. Language clarifying that the fund consists of legislative appropriations and repayments of principal is included.

#### Section 21.

The section is identical to Section 1 (Market-Tied Interest Rates) but the changes are made to the Historical District Loan Fund, AS 45.98.010 - 45.98.070. The present interest rate is 7.5 percent.

#### Section 22.

This section would replace the present fixed interest rate assessed as a penalty for inconsistent use of historical district loan funds with the proposed new flexible interest rate and provide that the penalty would consist of removal of the State subsidy for such loans. The present interest rate is fixed as 10.5 percent by AS 45.45.010.

#### Section 23.

The section is identical to Section 3 (General Fund Deposits) but the changes are made to the Fisherman's Mortgage and Note program, formerly AS 16.10.650 - 16.10.720. This program was repealed in 1982 so no new loans are being made. Repayments under existing loan continue.

#### Section 24.

The effective date for this legislation is proposed for July 1, 1985, the beginning of the new fiscal year.

PBA/kkk/B14  
2585a

ATTACHMENT TO SECTIONAL ANALYSIS OF HB 109

(MARKET-TIED INTEREST RATES)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

| U.S. TREASURY CONSTANT MATURITIES    |       |        |         |         |         |
|--------------------------------------|-------|--------|---------|---------|---------|
|                                      | 1 yr. | 5 yrs. | 10 yrs. | 20 yrs. | 30 yrs. |
| June 1983                            | 9.66  | 10.63  | 10.85   | 11.12   | 10.93   |
| July 1983                            | 10.20 | 11.21  | 11.38   | 11.59   | 11.40   |
| August 1983                          | 10.53 | 11.63  | 11.85   | 11.96   | 11.82   |
| September 1983                       | 10.16 | 11.43  | 11.65   | 11.82   | 11.63   |
| October 1983                         | 9.81  | 11.28  | 11.54   | 11.77   | 11.58   |
| November 1983                        | 9.94  | 11.41  | 11.69   | 11.92   | 11.75   |
| December 1983                        | 10.11 | 11.54  | 11.83   | 12.02   | 11.88   |
| January 1984                         | 9.90  | 10.37  | 11.67   | 11.82   | 11.75   |
| February 1984                        | 10.04 | 11.54  | 11.84   | 12.00   | 11.95   |
| March 1984                           | 10.59 | 12.02  | 12.32   | 12.45   | 12.38   |
| April 1984                           | 10.90 | 12.37  | 12.63   | 12.65   | 12.65   |
| May 1984                             | 11.66 | 13.17  | 13.41   | 13.43   | 13.43   |
| June 1984                            | 12.08 | 13.48  | 13.56   | 13.54   | 13.44   |
| July 1984                            | 12.03 | 13.27  | 13.36   | 13.36   | 13.21   |
| August 1984                          | 11.82 | 12.68  | 12.72   | 12.71   | 12.54   |
| September 1984                       | 11.58 | 12.53  | 12.52   | 12.42   | 12.29   |
| October 1984                         | 10.90 | 12.06  | 12.16   | 12.04   | 11.98   |
| November 1984                        | 9.82  | 11.33  | 11.57   | 11.66   | 11.56   |
| December 1984                        | 9.33  | 11.07  | 11.50   | 11.64   | 11.52   |
| AVERAGE:                             |       |        |         |         |         |
| Last 6 Mos.                          | 10.91 | 12.16  | 12.31   | 12.31   | 12.18   |
| Plus Risk                            | 1.25  | 1.25   | 1.25    | 1.25    | 1.25    |
| Plus Admin.                          | .75   | .75    | .75     | .75     | .75     |
| Minus Subsidy                        | 3.00  | 3.00   | 3.00    | 3.00    | 3.00    |
| RATE TO BE USED<br>FOR JANUARY, 1985 | 9.91  | 11.16  | 11.31   | 11.31   | 11.18   |

ATTACHMENT TO SECTIONAL ANALYSIS OF HB 109  
MARKET-TIED INTEREST RATES LEGISLATION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

|                                    | Average<br>Loan<br>Term | Present<br>Interest<br>Rate                           | Proposed<br>Market-Tied<br>Rate (January)          |
|------------------------------------|-------------------------|-------------------------------------------------------|----------------------------------------------------|
| Commercial Fishing                 | 10 yrs.                 | 10.5% ✓                                               | 11.31                                              |
| Fisheries Enhancement              | 30 yrs.                 | 9.5% ✓                                                | 11.18                                              |
| Child Care                         | 20 yrs.                 | 7.0%                                                  | 11.31                                              |
| Alternative Technology             | 10 yrs.                 | 9.5% ✓                                                | 11.31                                              |
| Alternative Energy                 | 10 yrs.                 | 5.0% (first \$15,000)<br>15.0% (amount over \$15,000) | 11.31                                              |
| Residential Energy<br>Conservation | 5 yrs.                  | 10.52% (presently)                                    | 11.16                                              |
| Bulk Fuel                          | 1 yr.                   | 10.52%* (presently) ✓                                 | 9.91                                               |
| Mining                             | 10 yrs.                 | 10.0%                                                 | 11.31                                              |
| Historical District                | 30 yrs.                 | 7.5%                                                  | 11.18                                              |
| Veterans' Loans                    | Varies                  | 9.5%                                                  | 11.31 (10-yr.)<br>11.31 (20-yr.)<br>11.18 (30-yr.) |

( INACTIVE ) 3-YEARS

\*when charged

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

6 PM 11/30  
JAY S. HAMMOND, GOVERNOR

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

November 30, 1982

Gerald L. Wilkerson, C.P.A.  
Legislative Auditor  
Legislative Audit Division  
Legislative Affairs Agency  
Pouch W  
Juneau, Alaska 99811

Honorable Carole J. Burger  
Commissioner  
Department of Administration  
Pouch C  
Juneau, Alaska 99811

Re: The dedicated funds  
prohibition applied to various  
funds and accounts. Our Files  
Nos. J66-785-81 and J66-649-80

Dear Mr. Wilkerson and Commissioner Burger:

You have both asked for a broad review of the application of the constitutional dedicated funds prohibition to various state funds and accounts. Alaska Const. art. IX, § 7. Because of the factual complexities presented by the various funds, accounts, and appropriations and because of the paucity of judicial precedent, we are not able to advise you with absolute certainty regarding the constitutionality of state practices. However, some of the issues raised by your request may be resolved in litigation which is now pending concerning the administration of

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 2

certain appropriations and funds by the Alaska Power Authority. 1/

In response to your request, we have identified and analyzed several categories of funds, accounts, and transactions which raise dedication questions. Our approach in dealing with these questions will be to first discuss the purpose and meaning of the dedication prohibition. We will then focus on the implications of a recent Alaska Supreme Court case that deals specifically with the dedicated funds prohibition. Next we will consider the probable legal status of several general categories of funds, accounts, and appropriations which raise dedication questions. Lastly, we will consider the dedication prohibition in reference to specific funds and appropriations.

We should point out that the advice given in this opinion could have a significant effect upon the state budget. This results from the recent adoption of Article IX, section 16 of the Alaska Constitution (the spending limit). Under the reasoning of this opinion, it may be that income earned by a loan fund or public enterprise must be appropriated to that fund or

---

1/ The legal issues in this litigation are the validity of the deposit of interest and principal payments on loans in a revolving loan fund and of the appropriation to the Power Development Fund of interest to be received on specific amounts appropriated to that fund (§ 1 ch. 90, SLA 1981 as reenacted by § 69 ch. 69 SLA, 1981 and amended by § 236 ch. 141, SLA 1982.). Trustees for Alaska, et al. v. State of Alaska and Alaska Power Authority, No. 3AN-492-82 Civ. (Alaska Super., Jan. 21, 1982)

enterprise if that income is to be retained by it. If the Alaska Supreme Court adopt that reasoning, the necessity for these appropriations would have to be considered by the administration and the legislature in developing a state budget which conformed to the spending limit. This concern would also become important if independent authorities for operation of entities like the State Ferry System or the Alaska Railroad were to be considered.

I. THE PURPOSE OF THE PROHIBITION

Article IX, Section 7 provides:

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 [establishing the Permanent Fund] 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.

There are essentially two views of the meaning of this provision. Under the first interpretation the dedicated funds prohibition would require that every dollar received by the state be deposited and remain unrestricted in the general fund until it is withdrawn pursuant to an appropriation authorizing the expenditure of a specific dollar amount for a specific pur-

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 4

pose (absent a contrary federal requirement or a statutory dedication which existed prior to ratification of the Constitution). This is known as the strict interpretation view.

Under the strict view, the phrase "proceeds of any state tax or license" would encompass every dollar paid to the state (or to a public corporation or authority established by the state) for whatever purpose. State loan repayments (both principal and interest), enterprise receipts (e.g., airport lease revenues, parking garage receipts, etc.), program receipts (e.g., Ferry System ticket sales, University of Alaska tuition receipts, etc.), as well as all other revenues (e.g., taxes, natural resource revenues such as royalties, etc.), would be required to be deposited in the state treasury and retained there until the expenditure is authorized by appropriation of a specific dollar amount.

An argument can certainly be made that this is the proper interpretation of the dedicated funds prohibition. As set out in 1975 Op. Atty. Gen. No. 9 at 2 (Alaska May 2, 1974), "Section 7 of Article IX had two interrelated purposes: (1) to prevent any future dedication of revenues for special purposes [i.e., 'earmarking'] and (2) to prevent the creation of new special funds separate from the general fund." The rationale underlying each of these two purposes is "that the widespread existence of dedicated revenues lodged in special funds deprives

both the governor and the legislature of 'any real control over the finances of the state.'" Id. at 3 (citation omitted). Requiring all monies received by the state to be deposited into the general fund clearly would satisfy both interrelated purposes of the prohibition. The strict interpretation view of the dedication prohibition would preclude the use of public monies to establish a standing or revolving loan fund or any other program which would be self-sustaining. 2/

However, a second approach in interpreting the meaning of Article IX, section 7 is also very plausible. Under this view, the dedication prohibition is not to be construed to require a blanket prohibition of self-sustaining programs set up by the legislature. As noted in 1975 Op. Atty. Gen. No. 9 at 6-8 (Alaska, May 2, 1975), the constitutional framers substituted the phrase "[t]he proceeds of any state tax or license" for the phrase "[a]ll public revenues" to avoid having to state a number of intended exceptions to the prohibition on dedicated funds. Examples of these exceptions were pointed out in a January 4, 1956, 3/ memorandum by the Public Administration Service (PAS) to

---

2/ Of course, even under the strict view, there would be some kinds of monies received by the state which it could not, for independent legal reasons, deposit into the general fund. These monies would include trust funds, restricted gifts, and funds subject to restrictions by contract.

3/ The actual date shown on the memorandum is "January 4, 1955". However, considering the timing of the constitutional convention, this was certainly a typographical error.

the Constitutional Convention: "pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts which the state might collect on behalf of local government units." 4/

Some of those examples were specifically mentioned by the court in State v. Alex, 646 P.2d 203 (Alaska 1982), which held that the phrase "proceeds of any state tax or license" was to be broadly construed to include all sources of public revenues. The court noted that the drafters intended to permit the establishment of certain special funds, (e.g., sinking funds for the repayment of bonds), but to prohibit the earmarking of any special tax to such a fund. Alex, supra at 210. The court did not elaborate on the application of the dedicated funds prohibition in these situations.

---

4/ The Public Administration Service prepared a publication entitled "Alaska Statehood Commission, Constitutional Studies (1955)" at the request of the Alaska Territorial Legislature for use at the constitutional convention. Ch 108 SLA 1949. This publication collected research papers on other state constitutions. Copies were mailed to all delegates, and it was often referred to in the convention proceedings. Alaska Statehood Committee, "Handbook for Delegates to the Alaska Constitutional Convention" 4 (1955). Referred to in State v. Alex, 646 P.2d 203, 209 n. 5 (Alaska 1982). The memorandum of January 4, 1956 contained comments by the PAS on the proposed draft of the Finance and Taxation article. Constitutional Convention Finance Committee minutes, Jan. 13, 1956.

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 7

II. MEANING OF THE PHRASE "PROCEEDS OF ANY STATE TAX OR LICENSE"

There has been continuing controversy over the proper construction of the phrase "proceeds of any state tax or license." In a number of earlier opinions, this office concluded that the dedicated fund prohibition did not reach all public revenues but, under its plain language, only the actual "proceeds of any state tax or license." See 1969 Op. Atty. Gen. Nos. 3 (Alaska, April 4, 1969) and 5 (Alaska, April 15, 1969); and 1959 Op. Atty. Gen. No. 7 (Alaska, March 11, 1959). This conclusion also was reached by the Division of Legal Services in the Legislative Affairs Agency. See September 1, 1977 memorandum from Bill G. Berrier, Director, to Subcommittee on Alaska Renewable Resources Development Fund of Alaska Permanent Fund (House).

Those opinions all concluded that the prohibition did not reach revenues derived from the disposal of state-owned natural resources. Given this conclusion, it followed that the legislature was free to dedicate all or a certain portion of such revenues to specific purposes. An example of this is found in AS 37.11.020, which requires that not less than five percent of state mineral lease receipts be deposited in the Alaska Renewable Resources Development Fund. (This statutory dedication was the subject of Mr. Berrier's September 1, 1977, memorandum).

On the other hand, 1975 Op. Atty. Gen. No. 9 at 24 (Alaska, May 2, 1975) reached the opposite conclusion:

Section 7 of Article IX of the state Constitution can be given its intended effect and serve its repeatedly expressed purpose only if the words "proceeds of any tax or license" are interpreted to mean what their framers clearly intended, i.e., the sources of any public revenues.

Accordingly, it is our conclusion that the dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever is limited by the state Constitution to those existing when the Constitution was ratified or required for participation in federal programs.

(Emphasis added.)

In State v. Alex, 646 P.2d at 210, the Alaska Supreme Court adopted the position set out in 1975 Op. Atty. Gen. No. 9 (Alaska, May 2, 1975). 5/ It now is clear that the term "proceeds of any state tax or license" is to be construed broadly to reach all public revenues, including public revenues from the development of state-owned natural resources, and not just the proceeds of taxes and license fees.

---

5/ Alex involved a challenge by commercial fishermen to the collection by a private aquaculture association of a special assessment authorized by statute and imposed on the sale of salmon. The court held that the statute improperly delegated the legislature's taxing authority, and that the assessment constituted "proceeds of a state tax or license" within the meaning of Article IX, section 7. State v. Alex, 646 P.2d at 210, 213.

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 9

After the decision in Alex we can now reach some definite conclusions regarding some of the funds and accounts you have asked us to review. The answers to other questions, however, are not as clear.

### III. IMPLICATIONS OF THE ALEX DECISION

There is no question that the dedicated funds prohibition in Article IX, section 7 flatly prohibits the legislature from dedicating future unrestricted general revenues to any particular purpose unless the dedication is required for participation in a federal program or the dedication existed before ratification of the Constitution. Alex, supra at 208-210. This confirms the view expressed in our April 1, 1981 memorandum opinion to the legislative auditor that the requirement in AS 37.11.020 that not less than five percent of state mineral revenues be placed in the Alaska renewable resources development fund is unconstitutional. This would be true of any statutory requirement that a specified percentage of revenues derived from the development of state-owned resources be deposited in a fund or earmarked for a particular purpose.

The Alex decision, however, does not provide answers to a number of additional questions. For example, does the dedicated funds prohibition apply (1) to money received through the sale of bonds (either general obligation bonds of the state or

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 10

revenue bonds of a public corporation); (2) to receipts from operation of facilities constructed with bond proceeds; or (3) to interest or investment income earned on money appropriated for a specific purpose? In short, are there any exceptions to the prohibition beyond those expressly set out in the Constitution? The section immediately following discusses this question.

#### IV. POSSIBLE EXCEPTIONS TO THE DEDICATED FUND PROHIBITION

##### A. Implied Exceptions.

An early draft of what is now Article IX, section 7 (but which was at that time numbered section 8) read as follows: "All public revenues shall be deposited in the state treasury . . . ." Subsequent to this early draft, the Committee on Finance and Taxation of the Constitutional Convention requested comments from the Public Administration Service on this wording. The PAS responded with the January 4, 1956 memorandum in which it warned that a strict interpretation of section 7 (then section 8) would prohibit the segregation of state money without regard to the source. The PAS then suggested that certain exceptions be identified in section 7. These exceptions included pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 11

which the state might collect on behalf of local government units.

After considering the PAS memorandum, the committee deleted the phrase "all public revenues shall be deposited ..." and substituted the phrase "The proceeds of any state tax or license ...". 3 Alaska Const. Conv. Proceed. at 2361. The record of the committee debate makes it clear that the purpose of this change was to meet the problems raised by the PAS in its January 4 memorandum. See 1975 Op. Atty. Gen. No. 9 at 8 (Alaska, May 2, 1975).

Given this drafting history, a very good case can be made that the present language of Article IX, section 7 must be read to include certain implied exceptions, such as those that are set out in the January 4 PAS memorandum, i.e., pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts which the state might collect on behalf of local government units. We believe this implied exception approach is the better interpretation of the dedicated fund prohibition and would be adopted by the Alaska Supreme Court if the question is presented to it.

B. Dedication of Money to Specific Purposes on a Continuing Basis When Appropriated

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. Revolving loan funds provide for the return to the fund of repayments by borrowers of the principal (and frequently the interest on that principal) 6/ which was loaned to them from the fund so that new loans can be made on a continuing basis. Special reserve funds involve essentially the setting aside of money for certain specified future needs or conditions which may or may not occur. 7/ 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 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 legis-

---

6/ We discuss the dedication of interest earned by revolving loan funds and other separate funds and accounts in the next portion of this opinion which begins below at p. 14.

7/ The "Rainy Day Account," AS 37.05.179, is an example of such an account.

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 13

lature 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.

Under this reasoning there would be no unlawful dedication involved in the return to a revolving loan fund of principal payments on loans. The initial appropriation would suffice to authorize the use of that money for other loans until the legislature reappropriates the unobligated assets of the fund or abolishes the fund.

Support for this position is found in the Alaska Supreme Court's analysis in the Alex case. In Alex, the court took note of the drafting change of Article IX, section 7 referred to earlier. This change, said the court, "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." State v. Alex, supra at 210.

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 14

The Alaska Supreme Court has thus recognized that the dedication prohibition of Article IX, section 7 does not operate to prohibit all dedications whatever their nature. Rather, the court seems to be saying that Article IX, section 7 must be read to allow certain necessary dedications of money by the legislature after that money is received and placed in the state treasury (i.e., general fund). This analysis by the Supreme Court gives support to the argument that the dedication prohibition does not apply to money once it has been lawfully appropriated from the general fund and that the legislature can, without violating Article IX, section 7, create "necessary dedications" out of that money.

C. Income Generated by Specific Funds or Accounts

A question separate from that just discussed arises concerning the application of the dedicated fund prohibition to the interest or other income earned by money appropriated to revolving funds and other funds and accounts. Is that derivative income revenue which, under the prohibition, must be deposited in the general fund, or may it accrue directly to the fund or account which "earned" it, increasing the amount of money in that fund or account which may be spent without further appropriation?

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-30

November 30, 1982  
Page 15

We are advised by the Department of Administration that the National Committee on Governmental Accounting has defined a fund to be:

A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

Municipal Finance Officers Association of the United States and Canada, "Governmental Accounting, Auditing, and Financial Reporting," 1980, Appendix B.

From the point of view of generally accepted accounting principles, then, income generated by a fund accrues to that fund unless a transfer is authorized. Economic theory also leads to that result, arguing that the interest or investment income on a particular fund is simply an increase in the value of the fund which offsets inflation and reflects the gradual growth of our economy. Under either approach, such derivative income ought not to be considered revenue subject to the dedicated funds prohibition.

Derivative income such as interest and investment income is not a traditional source of public revenue. It is generated by public revenue which has been received and appropriated and would not be generated if the legislature had

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 16

simply spent the money rather than appropriated it to a separate fund. Thus, a statutory dedication of the interest or investment income of a separate fund would not impair the ability of future legislatures to control the spending of general revenues. Rather, it would create a new pool of resources to be used under the statutory guidelines applicable to a particular fund until a future legislature amended or repealed those guidelines. There is no indication in the minutes of the Constitutional Convention that the drafters considered the treatment of separate funds which are endowed in this manner.

A difficulty that arises from the view that the dedicated funds prohibition is not applicable to interest or investment income on separate funds is that it permits steadily increasing amounts of money to be received and used by state departments and agencies without legislative control through the annual budget process. This is precisely the problem posed by the dedication of revenue sources which the drafters sought to avoid. For this reason, while we are not certain about the likely outcome, we doubt that a blanket exception for derivative income would be approved by the courts.

After all, the Alaska Constitution was not written for accountants and economic theorists. Although not expressly addressed by them, the framers were very much aware of the boom-bust cycle of Alaska's economy. In fact, a driving force

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 17

behind statehood was the desire of Alaskans themselves to be able to manage the income derived from those brief periods -- as Prudhoe Bay bears witness -- when the state may receive enormous sums of money which are then immediately available for expenditure or placement, by appropriation, into a variety of funds and accounts for various permissible purposes. Depending on the number and size of those funds and accounts, the interest earned on the money placed in them could itself be substantial and would almost certainly be of a magnitude which is far greater than that likely envisioned by the National Committee on Government Accounting in the above-quoted standard. Moreover, the significance of that interest income in properly managing the state's budget leads us to the conclusion that our framers would have considered it to be within the dedicated fund prohibition. As we have indicated, however, the answer to this question is not free from doubt. Consequently, until the question is ruled on by the courts, we will defend legislative action dedicating, by general law, derivative income to the funds which "earned" them.

In the absence of valid general law dedications of derivative income, we believe there would still be a way to maintain legislative control over revenues through the budgetary process while achieving the efficient accounting organization provided by separate funds. This would be if the legislature appropriated to the separate fund for a fixed period the amount

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 18

of interest or investment income received by that fund. Since each legislature has implicit budgetary authority for a maximum period of only two years, this practice would not impair the ability of future legislatures to dispose of those derivative revenues. Under this line of reasoning, the interest on a loan fund or other separate fund is public revenue which must be transferred to the treasury, unless the fund is authorized by appropriation to retain it for a specific period. Although it may be possible to argue in favor of a longer period, our recommendation is that these appropriations of derivative income to the fund which "earns" them be made annually, for each fiscal year.

D. Appropriations Stated in General Terms, Rather than Specific Amounts.

The annual budget has traditionally included certain appropriations not stated in specific dollar amounts but rather in terms of money to be received from certain sources during the fiscal year. Such an appropriation, for example, would authorize the risk management division of the Department of Administration to spend the anticipated proceeds from any insurance settlement

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 19

or judgment arising from the damage or loss of state property. 8/  
This practice ensures effective legislative control over state finances while, at the same time, it provides for budgeting flexibility which is especially useful for programs like risk management, the needs of which are necessarily unpredictable.

We have consistently advised that an appropriation is valid if it states a public purpose, has a source, states or implies a time period, and states an amount which is ascertainable by reference to specified information. Under this view a "revolving" loan fund could be established and operated, even if both principal and interest payments on loans are considered to be revenues which may not be dedicated, as long as there is an annual appropriation to the fund of all principal and interest payments received by the fund during the fiscal year. The fund would continue to revolve as long as it was included in the budget.

---

8/    See, for example, Sec. 7 ch. 113, SLA 1978 which provides:

Amounts equivalent to the amounts to be received in settlement of insurance claims for property losses are appropriated from the general fund to the affected agency for the purpose of replacing the facility or service lost as a result of the incident giving rise to the insurance claim.

Under this language, the state could undertake immediate repair or reconstruction of a school, maintenance facility, or other property damaged by fire or other cause covered by insurance without having to wait for actual settlement and payment by the insurer.

The practice of appropriating to a separate fund an amount to be ascertained by reference to receipts from a specified source during a definite period accommodates the need and desire of each legislature for budgetary flexibility without impairing the ability of future legislatures to control and dispose of public revenues. In fact, since the legislature maintains control of the appropriation by means of the budget, it could be argued that this practice does not even create a dedication in the first place since a true dedication must function to take control away from the legislature. If legislative control is present, then a dedication does not exist.

We do not think that this practice violates the dedication prohibition.

V. APPLICATION OF DEDICATION PROHIBITION TO SPECIFIC FUNDS,  
ACCOUNTS AND APPROPRIATIONS

We have identified the following categories of funds, accounts, and appropriations which raise dedicated funds questions.

- A. Allocation of a revenue source by statute to a fund or account from which it may be withdrawn only for limited purposes by appropriation.

1. Tobacco Tax (School) Fund (AS 43.50.140). This fund existed before ratification of the Alaska

Constitution and is therefore authorized to continue under Article IX, section 7. This tax and dedication have not been changed, but the legislature has imposed an additional tax on cigarettes which is deposited in the general fund. Although we have issued several opinions on the subject, there has been no judicial review, and it remains unclear to what extent the legislature may change the dedication or the underlying revenue source within the limit of "continuing" the dedication. 9/

2. Fish and Game Fund (AS 16.05.100 et seq.). The dedication of proceeds of fishing and hunting licenses to the operation of a Department of Fish and Game is required by federal law for participation in federal programs and is therefore authorized by Article IX, section 7. See 16 U.S.C. § 669. However, as discussed earlier, it is not clear whether a dedication of interest

---

9/ See Atty. Gen. Op. Nos. 7, 9, and 14; inf. memo (Alaska, March 10, 1966); Atty. Gen. Op. No. 22 (Alaska, June 2, 1978); inf. memo (June 30, 1981).

earned on investments in a fund such as that made by AS 16.05.110(5) is constitutional.

3. Reserves for Capital Outlay (AS 37.05.157) and Energy Facilities Development (AS 37.05.158).

By statute there is allocated to each of these accounts a fixed percentage of annual receipts from minerals on state land. Both of these funds appear to be unconstitutional dedications to the extent that they restrict the purpose for which money may be spent. We are informed that the Department of Administration has recorded the amounts to be allocated to each account but has not retained that money for expenditures related to capital outlay or energy facilities development. We also understand that the legislature has not made any appropriations from these two accounts. We suggest that AS 37.05.157 and AS 37.05.158 be repealed.

4. Renewable Resources Fund (AS 37.11.010-090). As we advised in our 1975 Attorney General Opinion No. 9, this statutory dedication is unconstitutional. We understand that the Department of Administration has followed our advice and has disregarded AS 37.11.010-090. We suggest that these statutes be repealed.

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 23

B. Allocation by Statute of Revenue to a Fund or Account  
From Which it may be Spent or Used Without Further Ap-  
propriation

1. Public Employees Retirement System Fund (AS 39.35)

This fund receives money from employees and employers who participate in the system. State employer contributions are paid to the fund monthly. AS 39.35.280. State employee contributions are statutorily required to be withheld from wages and transferred to the funds. AS 39.39.170. Participating political subdivisions make similar contributions on behalf of their employees. Benefits are paid to members of the retirement systems according to statute AS 39.35.370 et seq. Expenses of administering the system are also paid from the fund but are specifically required by statute to be included in the annual operating budget. AS 39.35.100(b)(4). The Teacher's Retirement System is accounted for in the same manner.

Although this is clearly a dedication of money received by the state, we believe that it is permissible under the implied exception theory

discussed earlier. It is our opinion that there is an implied exception to the dedicated funds prohibition for pension fund contributions. 10/

2. International Airport Funds (AS 37.15.420, 430, 440)

The fund established under AS 37.15.420 contains money received from the sale of general obligation bonds for airport improvements and other grants or money provided for the same purpose for which the bonds were authorized. The fund established under AS 37.15.430 contains revenues received by the state from ownership and operation of its airports. The fund established under AS 37.15.440 contains interest earned on money in the section 420 fund and revenues transferred from the section 430 fund for the purpose of redeeming airport revenue bonds.

Although each fund provides for a dedication of state revenue, we believe that they are permissible under the implied exception theory discussed earlier at pp. 5 and 6. It is our opinion that there is an implied exception to the

---

10/ The constitutional provision for state employee retirement systems supports such an implied exception. Alaska Constitution, Article XII, section 7.

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 25

dedicated funds prohibition for revenue derived from bond issues and for revenue derived from facilities constructed with bond proceeds, at least to the extent that it is necessary to satisfy the debt obligation or maintain the facility so that it continues to generate revenues for that purpose. To the extent that revenues are dedicated for purposes which are not related to satisfying the debt or maintaining the facility 11/, we believe that dedication would

---

11/ AS 37.15.430(a) authorizes use of funds dedicated to the International Airport Revenue Fund for six purposes providing, in pertinent part, as follows:

The money in the revenue fund shall only be used for the purpose of paying or securing the payment of the principal of and interest on the bonds and of and on any other revenue bonds issued by authorization of the legislature to provide funds to acquire, equip, construct and install additions and improvements to, and extensions of and facilities for, the airports and to be payable out of the revenue fund, the purpose of paying the normal and necessary costs of maintaining and operating the airports and all of the improvements and facilities of them, the purpose of paying the costs of renewals, replacements and extraordinary repairs to the airports and all of the improvements and facilities of them, the purpose of redeeming before their fixed maturities any and all revenue bonds issued for the purposes of the airports, the purpose of providing funds to acquire, construct and install necessary additions and improvements to and extensions of and facilities for the airports and all of their facilities, and the purpose of providing funds to pay any and all other costs relating to the ownership, use and operation of the airports.

violate Article IX, section 7 unless it either existed prior to ratification of our Constitution or is required by federal law. 12/

3. Continuing Debt Service Appropriation (AS 37.15-.012)

This statute purports to create a continuing annual appropriation from the general fund of the amount necessary to pay debt service on all outstanding general obligation bonds. This may be a dedication of revenues for a specific purpose. 13/ Even if it is, it is our opinion that there would be an implied exception to the dedicated fund prohibition for bond obligations.

4. Rural Electrification Revolving Loan Fund (AS 44-.83.361)

This fund received an initial appropriation from which the Alaska Power Authority is authorized to make loans. Principal and interest

---

12/ A dedication of airport revenues did exist prior to ratification. § 32-3A-15 ACLA 1949. However, it was repealed in 1968 by § 2 ch. 14, SLA 1968. On the other hand, it may be that 49 U.S.C. § 1718, adopted in 1970 and amended in 1982 by Section 511 of the Tax Equity and Fiscal Responsibility Act of 1982, P.L. 97-760, would be interpreted to require dedication of all airport revenues to construction, maintenance and operation of airports.

13/ Our uncertainty on this point arises from the fact that the statute does not purport to dedicate a particular revenue source.

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 27

payments on loans made from the fund are required by law to return to the fund. As we pointed out above, at n. 1, the questions of whether the principal and/or interest payments are revenues which may not be dedicated in this manner is now a matter in litigation in a suit filed by the Trustees for Alaska.

We will be defending the legislature's action in making both those dedications. In doing so, we will present in more detail a number of the arguments discussed above in support of the legislature's action. In addition, we will discuss the presumption of constitutionality of statutes and the deference due to the administrative and legislative interpretation of the dedicated funds prohibition. As indicated above, we believe that the return of principal payments to a loan fund does not offend the Constitution and that the return of interest payments to the loan fund may be permissible. However, we cannot predict with certainty the position that the court will adopt.

C. Appropriation of an amount from a specific  
revenue source (e.g., program receipts).

From time to time the legislature, by means of an annual operating budget appropriation, authorizes an agency to spend money that is generated out of one of the agency's programs. The appropriation also sets an upper limit on the amount that can be spent. Although program receipts are clearly state revenues which may not be dedicated, the practice of identifying program receipts as an appropriation source does not in any way limit legislative control over the expenditure of revenues because the legislature maintains control of the appropriation by means of the budget. Therefore, we believe that this practice is not affected by the dedicated funds prohibition.

D. Appropriation of an amount which is ascertainable  
only by reference to specified information.

Appropriations are regularly made to the risk management division, Department of Administration, of all proceeds during a fiscal year from claims, settlements or judgments arising from damage to or loss of state property. As pointed out above, at 18, this permits the state to repair or replace damaged property without specific appropriations, which would probably be either more or less than the actual property damage in any fiscal year.

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 29

The only difference between this and a typical appropriation is in the determination of the amount appropriated. When a fixed amount is appropriated, obligations incurred against it may be honored as long as there is cash available in the treasury. When an appropriation is made for an amount to be received from a certain source during a specific period, obligations may be honored only if a sufficient amount of money has been received from that source and there is cash available in the treasury. However, the amount of the appropriation remains determinable. Consequently, it is our opinion that these kinds of appropriations do not violate the dedicated fund prohibition. 14/

---

14/ The pending litigation discussed earlier (Trustees for Alaska v. State, *supra*) also includes a claim that an appropriation to the Alaska Power Authority of the interest to be received on money separately appropriated to the Power Development Fund violates the dedicated funds prohibition. § 1 ch. 90, SLA 1980, as reenacted by § 69 ch. 92, SLA 1981 and amended by § 236 ch. 141, SLA 1982. The questioned appropriation does not state a specific time period during which the interest is to be accrued. Consideration by the court of this particular question might not occur since, by informal memo dated April 19, 1982, we advised the Treasury Division of the Department of Revenue that the interest must be returned to the general fund because of a specific statutory requirement, AS 44.83.388(b). We are informed that no interest has accrued to the Power Development Fund.

E. Other Miscellaneous Dedications

1. Appropriations to the Permanent Fund. Since the constitution (Article IX, section 15) specifically authorizes dedications to the Permanent Fund of "at least" 25 percent of certain revenues, we believe any additional dedication to the fund by statute 15/ or by appropriation is also permissible.
2. Rainy day account. AS 37.05 179 creates a reserve fund to which money is appropriated and authorizes it to be spent for certain necessary emergency operating expenses at some future time. It is our opinion that this practice is permissible under the theory discussed above beginning at p. 12 that money once it is appropriated loses its character as revenue for purposes of the dedicated funds prohibition. A contrary view would severely restrict flexibility in state budgeting and accounting, and we doubt that such a view would be adopted by the courts.

---

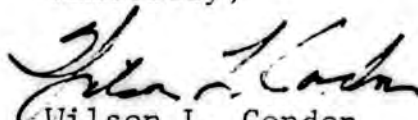
15/ In 1980, the legislature increased the percentage dedication applicable to most new mineral leases to 50 percent. AS 37.13.010(a)(2).

Mr. Gerald L. Wilkerson  
Honorable Carole J. Burger  
J66-785-81 and J66-649-80

November 30, 1982  
Page 31

We hope you find this analysis helpful in determining the nature of the problems presented by the dedicated fund prohibition and the various statutory programs which may or may not run afoul of it. We expect to be able to advise you with greater certainty on some of these questions at the conclusion of the pending litigation described above.

Sincerely,



Wilson L. Condon  
Attorney General

WLC:jf

cc: Ron Lehr, Director  
Division of Budget and Management

Jay Hogan, Director  
Division of Legislative Finance  
Legislative Affairs Agency

# Alaska State Legislature

## House of Representatives

### Committee on Loans



POUCH V  
JUNEAU, ALASKA 99811

PHONE:  
(907) 465-4919  
(907) 465-4920

#### AGENDA

TUESDAY, 2/19/85, 3:30 p.m.  
Room 124 (House Judiciary)

- HB 59 "An Act making a special appropriation to the Department of Natural Resources, division of parks, for the youth hostel loan fund; and providing for an effective date."
- HB 61 "An Act relating to loans for youth hostels."
- \* HB 109 "An Act relating to interest rates on and handling repayment of state loans; and providing for an effective date."

For more information, contact John Hartle  
Room 411  
465-4919

\*Indicates first public hearing