

HB 2003

HOUSE COMMITTEE REPORT

(11)

Date Referred: January 14, 1992

FURTHER REFERRALS:

Date of Committee Action: 2/26/92
 (Returned to Finance from Rules)

The FINANCE Committee considered:

HB 203

HOUSE BILL NO. 203

SCIENCE & TECHNOLOGY EDUCATION

"An Act establishing the Alaska education technology fund, and relating to publicly funded libraries; and providing for an effective date."

RECOMMENDATIONS:
 be replaced with CSHB 203 ^(2d Finance) the same title
 a new title

have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) Education 549. APPROVES PREVIOUS: (Dept/Date)
 fiscal impact Education 5145.9 fiscal note(s) _____
 zero fiscal note _____ zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Tom Brown</i> Brown	✓	<i>Mike Navarre</i> NAVARRE		✓	
<i>Mark Boyer</i> Boyer	✓	<i>Mark Boyer</i> BOYER		X	
<i>Phillips</i> Phillips	✓	<i>Phillips</i> Phillips		✓	
		<i>Ronald J. Larson</i> Larson		☹	
		<i>Bert Sharp</i> Sharp		✓	

Mike Navarre NAVARRE
 CO-CHAIRMAN'S SIGNATURE

CS FOR HOUSE BILL NO. 203 (2d FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BROWN, MacLean, B.Davis, Koponen, Ellis, Bruckman, Ulmer, C.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska education technology program; and providing for an
2 effective date."

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

4 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

5 (1) 75 percent of the labor force in the state is unprepared to deal with rapidly changing
6 technology;

7 (2) the education system and publicly funded libraries can help in creating a trained labor
8 force;

9 (3) education technology has the potential to improve the academic performance of
10 students, to prepare students for work in a technological society, and to assist with education reform;

11 (4) schools and publicly funded libraries lack adequate hardware, software, and training
12 for students, patrons, and educators in education technology;

13 (5) in order to implement effective education technology programs, teacher training and
14 active participation is essential;

1 (6) an equitable distribution of education technology is necessary to ensure that all public
2 school students in the state receive comparable educational opportunities.

3 (b) It is the purpose of this Act to establish the Alaska education technology program, to provide
4 teachers, library staff, and other instructional personnel with training in how to apply education
5 technology in meeting instructional objectives, and to provide the necessary equipment and materials to
6 effectively utilize education technology within the adopted curricula throughout the rural and urban
7 schools and in publicly funded libraries of this state.

8 * Sec. 2. AS 14.30 is amended by adding new sections to read:

9 ARTICLE 10. ALASKA EDUCATION TECHNOLOGY.

10 Sec. 14.30.750. ALASKA EDUCATION TECHNOLOGY PROGRAM. (a) The Alaska
11 education technology program is established in the department. The program must include

12 (1) technical assistance to a district, a public school, or a publicly funded library
13 for the purpose of planning for and purchasing education technology;

14 (2) training for employees of a district, public school, or publicly funded library
15 in the use of education technology in the classroom or library; and

16 (3) a plan for coordinating and expanding existing networks for educational uses,
17 including the University of Alaska computer network, star schools, livenet, rural Alaska
18 television, and library sharing systems.

19 (b) In administering the program required under this section, the department may pool
20 grant money or other money available from each district or publicly funded library in order to
21 make a bulk purchase of education technology or to provide necessary training.

22 Sec. 14.30.760. ALASKA EDUCATION TECHNOLOGY FUND ESTABLISHED. (a)
23 The Alaska education technology fund is established in the department. The purpose of the fund
24 is to (1) enhance the quality and equity of education at public elementary and secondary schools
25 by providing money to purchase, install, and maintain education technology in classrooms; (2)
26 provide training in the use of education technology to help students achieve student performance
27 standards; (3) provide network access for public schools through the University of Alaska
28 computer network; and (4) provide education technology, including computer and resource
29 sharing systems to publicly funded libraries. Money in the fund may be used to provide grants
30 or may be expended by the department for projects that further the purposes described in this
31 subsection. The fund consists of legislative appropriations to the fund and public or private

1 donations made for the purpose of the fund.

2 (b) A project or grant application may be submitted to the department by a public school,
3 by a school district on behalf of a public school, or by a publicly funded library. The department
4 shall fund projects approved by the committee or award grants from the fund to a school district,
5 a public school, or a publicly funded library selected by the committee. Money in the fund that
6 consists of proceeds from the sale of general obligation bonds may not be awarded to a school
7 district, a public school, or a publicly funded library as a grant.

8 (c) A project or grant application submitted by a public school or by a school district
9 under (b) of this section must include

- 10 (1) educational goals and objectives;
- 11 (2) a comprehensive plan for using the education technology selected to achieve
12 the educational goals and objectives;
- 13 (3) a description of the relationship between the application and the board's
14 standards for student performance;
- 15 (4) required initial and ongoing training for teachers to effectively use the
16 education technology in the classroom;
- 17 (5) a description of the education technology proposed to be purchased;
- 18 (6) a proposed budget;
- 19 (7) a description of local efforts or resources that will be contributed;
- 20 (8) provisions for site preparation, equipment security, and required technical and
21 maintenance support; and
- 22 (9) criteria and methods that will be used to periodically evaluate and document
23 progress in achieving the educational goals and objectives.

24 (d) A project or grant application submitted by a publicly funded library under (b) of this
25 section must include

- 26 (1) library goals and objectives, including how the education technology will
27 improve services of the library or access to resource sharing;
- 28 (2) a comprehensive plan for using the education technology selected to achieve
29 library goals and objectives;
- 30 (3) required initial and ongoing training for library personnel to effectively use
31 the education technology;

- 1 (4) a description of the education technology proposed to be purchased;
2 (5) a proposed budget;
3 (6) a description of local efforts or resources that will be contributed;
4 (7) provisions for site preparation, equipment security, and required technical and
5 maintenance support; and
6 (8) whether the library participates in a resource sharing system.

7 (e) The board shall adopt regulations that allow a school district, a public school, or a
8 publicly funded library to obtain education technology under a permit or lease with the
9 department, for a project approved under AS 14.30.780(b).

10 (f) The department shall administer grants awarded under this section and shall include
11 a report on the projects receiving funds as part of the department's annual report.

12 Sec. 14.30.770. POWERS AND DUTIES OF THE COMMISSIONER OF REVENUE.
13 The commissioner of revenue is the treasurer of the fund and has the following powers and duties
14 under this section:

15 (1) to act as official custodian of the cash and investments belonging to the fund
16 by securing adequate and safe custodial facilities;

17 (2) to collect the principal and income from investments owned or acquired by
18 the state treasury and deposit the amounts in separate principal and income accounts for the fund;

19 (3) to invest and reinvest the assets of the fund as provided in this section and
20 as provided for the investment of retirement funds under AS 14.25.180;

21 (4) to exercise the powers of an owner with respect to the assets of the fund;

22 (5) to do all acts, whether or not expressly authorized, that the commissioner of
23 revenue considers necessary or proper in administering the assets of the fund;

24 (6) to maintain accounting records of the fund in accordance with investment
25 accounting principles and with distinction between the principal and income accounts of the fund;

26 (7) to engage an independent firm of certified public accountants to annually audit
27 the financial condition of the fund's investments and investment transactions;

28 (8) to enter into and enforce contracts or agreements considered necessary for the
29 investment purposes of the fund;

30 (9) to report to the department the condition and investment performance of the
31 fund.

1 Sec. 14.30.780. EDUCATION TECHNOLOGY COMMITTEE. (a) The Education
2 Technology Committee is composed of the director of the division of libraries, archives, and
3 museums and six members appointed by the governor. The governor shall appoint

4 (1) four members who are educators with demonstrated education technology
5 experience;

6 (A) one from a district with 15,000 or more students;

7 (B) one from a district with at least 6,000 but less than 15,000 students;

8 (C) one from a district with at least 1,000 but less than 6,000 students; and

9 (D) one from a district with less than 1,000 students;

10 (2) one member with demonstrated education technology experience who is
11 employed by the University of Alaska; and

12 (3) one member with demonstrated education technology experience who is
13 employed by the department.

14 (b) The committee shall review project and grant applications and approve project
15 funding or award grants to a school district, a public school, or a publicly funded library from
16 the fund. In reviewing project or grant applications the committee shall consider the
17 completeness and consistency of the application in meeting the requirements of AS 14.30.760(c)
18 and (d). In funding projects or awarding grants to a school, district, or library, the committee
19 shall incorporate the applicant's plan for utilizing education technology. In funding projects or
20 awarding grants, the committee shall develop appropriate guidelines to ensure an equitable
21 distribution of project and grant funds. The committee shall recommend to the department the
22 best method for providing statewide teacher training and training to other instructional personnel
23 on the application and implementation of education technology as a part of the classroom
24 curriculum.

25 (c) Members of the committee serve without compensation but are entitled to receive per
26 diem and travel expenses authorized for boards and commissions under AS 39.20.180.

27 Sec. 14.30.790. DEFINITIONS. In AS 14.30.750 - 14.30.790,

28 (1) "committee" means the Education Technology Committee;

29 (2) "district" has the meaning given in AS 14.17.250;

30 (3) "education technology" means instructional equipment and materials that are
31 used to enhance the quality and increase the efficiency of teaching and learning, including

1 hardware, software, and telecommunications;

2 (4) "fund" means the Alaska education technology fund;

3 (5) "publicly funded library" means a library eligible for a grant under
4 AS 14.56.310.

5 * Sec. 3. Before accepting project or grant applications under AS 14.30.760(b), enacted in sec. 2 of
6 this Act, the Department of Education shall conduct

7 (1) a survey of education technology resources in public schools and publicly funded
8 libraries in the state; and

9 (2) a statewide education technology grant and project writing seminar, available to all
10 public schools, school districts, and publicly funded libraries.

11 * Sec. 4. AS 14.30.760, 14.30.770, 14.30.780, and 14.30.790 are repealed December 31, 1998.

12 * Sec. 5. This Act takes effect July 1, 1992.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSH 203

Revision Date: 2/25/92 Department Affected: Education
 Title: An Act establishing the Alaska Education Technology program BRU: Education Program Support
 Component: Basic Education
 Sponsor: Kay Brown
 Requestor: Kay Brown/House Finance COMPONENT SERIAL NO.

1	7	1
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	83.6	83.6	83.6	83.6	83.6	83.6
TRAVEL	16.3	10.3	10.3	10.3	10.3	10.3
CONTRACTUAL	27.5	12.2	12.2	12.2	12.2	12.2
SUPPLIES	.5	.5	.5	.5	.5	.5
EQUIPMENT	18.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	145.9	106.6	106.6	106.6	106.6	106.6

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	145.9	106.6	106.6	106.6	106.6	106.6
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	145.9	106.6	106.6	106.6	106.6	106.6

POSITIONS:

FULL-TIME	1.5	1.5	1.5	1.5	1.5	1.5
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) This fiscal note does not assume the administrative costs necessary to administer the Education Technology Fund. Should the fund be created, additional costs would occur.

Prepared By: Karen R. Crane Phone: 465-2800
 Division: Commissioner's Office Date: 2/25/92

Approved by Commissioner: Jerry Coyne *Karen R. Crane*
 Agency: Education Date: 2/25/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legs. Cfc., & Impacted Agencies.

Rev 10/7/91

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSH 203

Revision Date: 2/25/92 Department Affected: Education
 Title: An Act establishing the Alaska BRU: Library, Archives and Museums
 Component: Library Operations
 Sponsor: Kay Brown
 Requestor: House Finance COMPONENT SERIAL NO.

2	0	8
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	31.7	31.7	31.7	31.7	31.7	31.7
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	3.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	.3	.3	.3	.3	.3	.3
EQUIPMENT	9.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	49.0	40.0	40.0	40.0	40.0	40.0

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	49.0	40.0	40.0	40.0	40.0	40.0
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	49.0	40.0	40.0	40.0	40.0	40.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

This fiscal note does not assume the administrative costs necessary to administer the Education Technology Fund. Should the fund be created, additional costs would occur.

Prepared By: George V. Smith Phone: 465-2910
 Division: Libraries, Archives and Museums Date: 2/25/92
 Approved by Commissioner: Jerry Covey
 Agency: Education Date: 2/25/92

Fiscal Note Analysis

**CSHB 203 (HES): Establishing the Alaska education technology fund,
and relating to publicly funded libraries**

Revised February 25, 1992

Page 2

NOTE: This fiscal note reflects the costs associated with CSHB 203 as follows:

Personal Services

1 FT Education Specialist II, Range 21: \$67.7

Primary responsibilities:

- Develop a plan to coordinate and expand existing public and private, district and state-level services which impact K-12 educational telecommunications, including STAR schools, the University of Alaska computer network, Livenet, and rural Alaska television.
- Promote the development of district/site level plans for appropriate use of technology-assisted instruction, and provide assistance in securing necessary training and other resources to carry out these plans.
- Coordinate the use of educational technology within the Department's existing curriculum, vocational, and restructuring projects.

1 half-time Clerk Typist III, Range 8 (.5): \$15.9

Primary responsibilities: Clerical support for Education Specialist in working with school districts and planning for use of education technologies in the classroom.

1 full-time Clerk Typist III, Range 8, \$31.7,

Primary responsibilities: Support existing library positions in carrying out functions of planning and supporting the use of education technology in libraries.

Fiscal Note Analysis

CSHB 203 (HES): Establishing the Alaska education technology fund, and relating to publicly funded libraries

February 25, 1992

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Travel

FY93

Travel for committee members to meet and develop recommendations for the department on statewide education technology implementation (8 members for one 3-day meeting, with \$500 average transportation cost, and \$285 for per diem): \$6.3.

FY93-97

Department of Education technical assistance, facilitating training: \$10.0

Library staff: \$5.0

Contractual

FY93

Audioconferencing with school districts and follow-up meetings with committee: \$1.2

Professional service contracts: Survey of educational technology resources: \$15.0

FY93-97

Phone, postage, photocopying: \$5.3

Professional service contracts: publications, training, planning workshops: \$7.0

Audioconferencing with school districts: \$2.0

Supplies

Publications, memberships, training materials: \$5.8

Equipment

FY93 only:

3 Computer terminals for word processing, electronic mail system interconnecting school districts and school libraries, grant management (spreadsheet) functions: $\$8.0 \times 3 = \24.0

Desks and other office equipment: $\$1.0 \times 3 = \3.0

FISCAL NOTE

**STATE OF ALASKA
1992 LEGISLATIVE SESSION**

BILL NO. CSHB203
Work Draft

Revision Date: Department Affected: University of Alaska
Title: "An Act establishing the Alaska Educational Technology Fund BRU: Institutional Support
Component: Statwide Networks

Sponsor: Brown, MacLean, etc
Requestor: Rep. Brown Component Serial No. #1483

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY93	FY94	FY95	FY96	FY97	FY98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	155.0	167.7	181.1	195.1	209.0	223.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	155.0	167.7	181.1	195.1	209.0	223.0

CAPITAL	100.0	0.0	0.0	0.0	0.0	0.0
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REVENUE						
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FUNDING: (Thousands of Dollars)						
GENERAL FUND	255.0	167.7	181.1	195.1	209.0	223.0
FEDERAL FUNDS						
OTHER						
TOTAL	255.0	167.7	181.1	195.1	209.0	223.0

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

See attached

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

Phone: 474-7593
Date: 1/28/92

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

Date: 1/28/92

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

FISCAL NOTE ANALYSIS - CSHB 204 ()

This appropriation would provide toll-free access to the University of Alaska computer network and would provide state-of-the-art computer and network equipment in public schools throughout the state. These would be used to deliver computer services and image transmission in connection with distance education.

The capital appropriation would pay for equipment, and the operating appropriation would pay for telecommunication services.

FISCAL NOTE ANALYSIS - CSHB 203 ()

This appropriation would provide toll-free access to the University of Alaska computer network and would provide state-of-the-art computer and network equipment in public schools throughout the state. These would be used to deliver computer services and image transmission in connection with distance education.

The capital appropriation would pay for equipment, and the operating appropriation would pay for telecommunication services.

FISCAL NOTE

STATE OF ALASKA
92 LEGISLATIVE SESSION

BILL NO. CS for HB 203

Revision Date: 1/28/92

Department Affected: Revenue

Title: An act establishing the Alaska education technology fund.

BRU: Operations

Component: Treasury Management

Sponsor: Reps. Brown, MacLean, B.Davis, Koponen, Ellis

Component Serial No.

0	1	2	1
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Requestor: Representative Kay Brown

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	5.0	5.0	5.0	5.0	5.0	5.0
TRAVEL						
CONTRACTUAL	20.0	20.0	20.0	20.0	20.0	20.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.0	25.0	25.0	25.0	25.0	25.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND/Unrestricted						
FEDERAL FUNDS						
OTHER	25.0	25.0	25.0	25.0	25.0	25.0
TOTAL	25.0	25.0	25.0	25.0	25.0	25.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimated impact of current year impact: None

ANALYSIS: The 25.0 expenditure in total operating costs is the basic personal services and contractual costs for a trust managed by the Treasury Division. Contractual costs would consist of external investment management, accounting, auditing, and custodial services. Future cost increases are dependent on the asset growth of the trust fund from contributions and market gains.

Prepared by: Brian C. Andrews Phone: 465-2350
 Division: Treasury Date: January 28, 1992
 Approved by Commissioner: [Signature]
 Agency: Revenue

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).
 12/91

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSHB 203

Revision Date: 1/28/92 Department Affected: Education
 Title: An Act Establishing Alaska BRU: Education Program Support
Technology Fund Component: Basic Education
 Sponsor: Representative Brown
 Requestor: House Finance COMPONENT SERIAL NO.

1	7	1
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	265.4	273.2	281.7	290.5	299.5	
TRAVEL	25.4	20.6	20.6	20.6	20.6	
CONTRACTUAL	138.1	93.1	55.6	55.6	55.6	
SUPPLIES	1.8	1.8	1.8	1.8	1.8	
EQUIPMENT	24.0	0	0	0	0	
LAND & STRUCTURES						
GRANTS, CLAIMS	279.5	2093.2	2000.0	2000.0	2000.0	
MISCELLANEOUS						
TOTAL OPERATING	734.2	2481.9	2359.7	2368.5	2377.5	

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

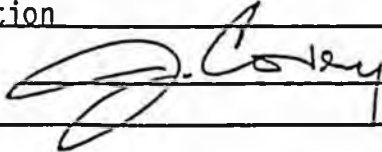
GENERAL FUND	734.2	2481.9	2359.7	2368.5	2377.5	
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	734.2	2481.9	2359.7	2368.5	2377.5	

POSITIONS:

FULL-TIME	4	4	4	4	4	
PART-TIME	1	1	1	1	1	
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Cathy Carney Phone: 465-2841
 Division: Basic Education Date: 1/28/92
 Approved by Commissioner:  Jerry Covey
 Agency: Education Date: 1/28/92

Fiscal Note Analysis

CSHB 203 (HES): Establishing the Alaska education technology fund, and relating to publicly funded libraries

Revised January 27, 1992

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NOTE: This fiscal note reflects the costs associated with CSHB 203 as follows:

- 1) Administration, statewide coordination and staff support
- 2) Training function/pre-purchase training
Statewide education technology and grant writing seminar
- 3) Training function/Classroom Teacher Training
Training of classroom teachers and school district staff in use of each school's selected technologies.

1) Administration, statewide coordination and staff support

Personal Services

FY93 through FY97:

1 FT Education Specialist II, Range 21: \$62.7

Primary responsibilities: Assistance to school districts in grant proposal development, technical expertise on instructional strategies utilizing technologies, coordination of projects and proposals between school districts, planning for training, Grant Committee meetings, overall oversight of grant program.

Temporary Project position: 1 FT Education Specialist I, Range 19: \$55.5

Primary responsibilities: Overall support to Education Specialist in administrative requirements of program including paperwork associated with grant proposal review, disbursement of funds, support for Grant Committee work, response to general inquiries from school districts and technology vendors, public notices, scheduling of audioconferences, etc. Position will last the duration of the grant fund (through FY94).

1 PT Clerk Typist III, Range 8: \$31.6

Primary responsibilities: Clerical support for Technology grant program and Specialist's work with school districts in use of technologies in the classroom.

1 Librarian II, Range 17: \$52.5

Primary responsibilities: Administer the grant program as it relates to the libraries; provide training as needed to users of the equipment.

1 Supply Tech II, Range 12: \$38.9

Primary responsibilities: Coordinate the purchase, inventory, shipping of equipment purchased with bond funds.

1 PT Grants administration technician: \$24.2

Fiscal Note Analysis

CSHB 203 (HES): Establishing the Alaska education technology fund, and relating to publicly funded libraries

January 27, 1992

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Travel

FY93 through FY97:

Travel for Grant Committee members to meet and develop grant criteria and procedures (8 members for one 3 day meeting, with \$500 average travel cost, \$285 for perdiem): \$6.3

Three day meeting of Grant Committee for review and award of grants: \$6.3

Technical assistance, advisory function of DOE specialists, travel to school districts for technical assistance and monitoring of expenditures, estimated at 10 per year, at cost of \$.8 per trip, with 6 additional trips budgeted the first year for the librarian specialist: \$12.8 first year, \$8.0 subsequent years.

Contractual

FY93 through FY97:

Phone, postage, photocopying: \$21.4

Audioconferencing with school districts and follow-up meetings with Committee: \$3.2

Commodities

FY93 through FY97:

Supplies associated with positions and grant administration: \$1.8

Equipment

FY93 only:

Computer terminal for word processing, electronic mail system interconnecting school districts and school libraries, grant management (spreadsheet) functions: $\$8.0 \times 3 = \24

Fiscal Note Analysis

CSHB 203: Establishing the Alaska education technology fund

January 27, 1992

Page 4

2) Training/Pre-purchase training

* Training will be provided to teams of five from each school district in the state; total participants = 270

* Three training sessions will be offered, each providing training for approximately 90 team members

* Teacher release/substitute pay is budgeted for the anticipated 2 teachers per team (at a cost of \$100 per day x 3 days)

* Training sessions will last three days, with travel to/from session on part of a fourth day; per diem is budgeted at the equivalent of 3.5 days at a cost of \$90 per day = \$315 per person.

Contractual

FY93: \$37.5 per session x 3 sessions = \$112.5

This cost assumes co-sponsorship with vendors and is based on cost figures from a similar Washington state training program.

Analysis of costs:

Brochure/application	2.7
Media expenses	1.7
Facilities	16.5
General facilitator	4.0
Speakers/presenters (fees, lodging, travel)	3.5
Facilitators (6 smaller group facilitators, each receiving \$250.00 stipend)	1.5
Videotaping/duping expenses	3.5
Office supplies/copies	1.0
Phone & power cable/line charges	2.0
Miscellaneous	1.1
Sub-total	<u>\$37.5</u>

FY94: 1 follow-up session available to districts not participating in FY93 and/or to accommodate staff changes: \$37.5

Fiscal Note Analysis

CSHB 203: Establishing the Alaska education technology fund

January 27, 1992

Page 5

Grants

FY93: Grants to School Districts: \$279.5

Analysis of costs

Travel: \$600 per person (ave.) x 270 = 162.0

Per diem: \$315 per person x 270 = 85.1

Substitute pay: \$600 per team x 54 = 32.4

Sub-Total -----
\$279.5

FY94: Grants to School Districts: 1/3 of FY93 = \$93.2

3) Training/Classroom Teacher Training

Contractual

FY94 through FY97: \$30.0

Two sessions offered through Summer Academies for intensive 3-5 day trainings: \$15.0 x 2 = \$30.0

Grants

FY 94 through FY97: Grants to school districts totalling \$2,000.0 per year for the purposes of staff training in classroom use of the school's selected technologies is proposed. Grant awards will be made by the Education Technology Grant Committee per provisions set out in HB 203.

It is assumed that districts will be able to only provide training to a portion of their teaching staff each year. Therefore, the cost of training is carried over a four year period (FY94 through FY97). Each district is to develop its own training program and application for grant funds, with assistance provided by the DOE specialist as needed.

This analysis assumes extensive teacher involvement in the planning of each district's training program, with the focus of grant funds on the training of classroom teachers.

Summary of Costs

	(1)	(2)	(3)	
	<u>Admin/Support</u>	<u>Pre-Purchase Training</u>	<u>Teacher Training</u>	<u>Total</u>
FY93				
Personal Services	265.4	0.0	0.0	265.4
Travel	25.4	0.0	0.0	25.4
Contractual	25.6	112.5	0.0	138.1
Commodities	1.8	0.0	0.0	1.8
Equipment	24.0	0.0	0.0	24.0
Grants	0.0	279.5	0.0	279.5
Total	<u>342.2</u>	<u>392.0</u>	<u>0.0</u>	<u>734.2</u>
FY94 through FY97				
Personal Services	273.2 + 5% yrly	0.0	0.0	273.2
Travel	20.6	0.0	0.0	20.6
Contractual	25.6	37.5*	30.0	93.1*
Commodities	1.8	0.0	0.0	1.8
Equipment	0.0	0.0	0.0	0.0
Grants	0.0	93.2*	2,000.0	2,093.2*
Total	<u>321.2</u>	<u>130.7*</u>	<u>2,030.0</u>	<u>2,481.9*</u>

* The \$37.5 contractual cost and \$93.2 grant cost for pre-purchase training applies to FY94 only; these costs are not incurred in FY95 through FY97.

Representative Kay Brown

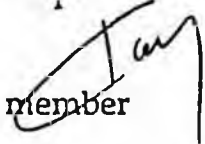
ALASKA STATE LEGISLATURE

Legislative Information Office
3111 C Street #435
Anchorage, Alaska 99503
(907) 561-7627

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

DATE: Monday, February 24, 1992

TO: Finance Subcommittee on HB 203/Education Technology
Representative Niilo Koponen, Chair
Representative Mark Boyer
Representative Randy Phillips

FROM: Representative Kay Brown
Prime Sponsor, Subcommittee member 

RE: CS for HB203 (2/21/92 Work Draft)

Attached is a new draft for House Bill 203, enabling legislation to create an Education Technology Fund and a state Education Technology Program. The new draft addresses concerns expressed by House Finance Committee members when they considered the 1/27/92 Work Draft of this bill on January 29. [Note: New language (relative to the 1/27 draft) is underlined and other changes are also marked.]

The major changes are:

- Additional criteria and requirements that schools, districts and libraries must meet when applying for project or grant funds are added. The Education Technology Committee must consider these items when reviewing proposals. See page 3, lines 8-31, p. 4, lines 1-6, and p. 5, lines 15-25.

- An Education Technology Program would be established within the Department of Education, regardless of whether or not the Education Technology Fund is capitalized. Language that initiates a program with specific responsibilities is found on page 2, lines 10-18. The repeal clause for the Education Technology Program has been removed (p. 6, line 9).

A new fiscal note is being prepared by the Department of Education.

Please let me know if the 2/21/92 Work Draft meets with your approval. I would like to bring this bill back up before the Finance Committee as soon as possible.

DISTRICT 12

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Eastridge • Penland Park • Airport Heights • Government Hill

CS FOR HOUSE BILL NO. 203 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES BROWN, MacLean, B.Davis, Koponen, Ellis, Bruckman, Ulmer, C.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska education technology program; and providing for an
2 effective date."

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

4 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

5 (1) 75 percent of the labor force in the state is unprepared to deal with rapidly changing
6 technology;

7 (2) the education system and publicly funded libraries can help in creating a trained labor
8 force;

9 (3) education technology has the potential to improve the academic performance of
10 students, to prepare students for work in a technological society, and to assist with education reform;

11 (4) schools and publicly funded libraries lack adequate hardware, software, and training
12 for students, patrons, ^[teachers] and ^[computer] educators in education technology;

13 (5) in order to implement effective education technology programs, teacher training and
14 active participation is essential;

1 (6) an equitable distribution of education technology is necessary to ensure that all public
2 school students in the state receive comparable educational opportunities.

3 (b) It is the purpose of this Act to establish the Alaska education technology program, to provide
4 teachers, library staff, and other instructional personnel with training in how to apply education
5 technology in meeting instructional objectives, and to provide the necessary equipment and materials to
6 effectively utilize education technology within the adopted curricula throughout the rural and urban
7 schools and in publicly funded libraries of this state.

8 * Sec. 2. AS 14.30 is amended by adding new sections to read:

9 ARTICLE 10. ALASKA EDUCATION TECHNOLOGY.

10 Sec. 14.30.750. ALASKA EDUCATION TECHNOLOGY PROGRAM. (a) The Alaska
11 education technology program is established in the department. The program shall include

12 (1) technical assistance to a district, a public school, or a publicly funded library
13 for the purpose of planning for and purchasing instructional equipment related to technology;

14 (2) training for employees of a district, public school, or publicly funded library
15 in the use of technology in the classroom or library; and

16 (3) a plan for coordinating and expanding existing networks for educational uses,
17 including the University of Alaska computer network, star schools, livenet, rural Alaska
18 television, and library sharing systems.

19 (b) In administering the program required under this section, the department may pool
20 grant money or other money available from each district or publicly funded library in order to
21 make a bulk purchase of required equipment or to provide necessary training.

22 Sec. 14.30.760. ALASKA EDUCATION TECHNOLOGY FUND ESTABLISHED. (a)
23 The Alaska education technology fund is established in the department. The purpose of the fund
24 is to (1) enhance the quality and equity of education at public elementary and secondary schools
25 by providing money to purchase, install, and maintain classroom instructional equipment and
26 materials related to technology; (2) provide training in the use of the instructional equipment and
27 materials to help students achieve student performance standards; (3) provide network access for
28 public schools through the University of Alaska computer network; and (4) provide computer and
29 resource sharing systems to publicly funded libraries. Money in the fund may be used to provide
30 grants or may be expended by the department for projects that further the purposes described in
31 this subsection. The fund consists of legislative appropriations to the fund and public or private

1 donations made for the purpose of the fund.

2 (b) A project or grant application may be submitted to the department by a public school,
3 by a school district on behalf of a public school, or by a publicly funded library. The department
4 shall fund projects approved by the committee or award grants from the fund to a school district,
5 a public school grantee, or a publicly funded library selected by the committee. Money in the
6 fund that consists of proceeds from the sale of general obligation bonds may not be awarded to
7 a school district, a public school, or a publicly funded library as a grant.

8 (c) A project or grant application submitted by a public school or by a school district
9 under (b) of this section must include

10 (1) educational goals and objectives;

11 (2) a comprehensive plan for using the technology to achieve the educational
12 goals and objectives;

13 (3) a description of the relationship between the application and the board's
14 standards for student performance;

15 (4) required initial and ongoing training for teachers to effectively use the
16 technology in the classroom;

17 (5) a description of the technology proposed to be purchased;

18 (6) a proposed budget;

19 (7) a description of local efforts or resources that will be contributed;

20 (8) provisions for site preparation, equipment security, and required technical and
21 maintenance support; and

22 (9) criteria and methods that will be used to periodically evaluate and document
23 progress in achieving the educational goals and objectives.

24 (d) A project or grant application submitted by a publicly funded library under (b) of this
25 section must include

26 (1) educational goals and objectives, including how the technology will improve
27 student performance or the services of the library;

28 (2) a comprehensive plan for using the technology selected to achieve the
29 educational goals and objectives;

30 (3) required initial and ongoing training for library personnel to effectively use
31 the technology;

- 1 (4) a description of the technology proposed to be purchased;
2 (5) a proposed budget;
3 (6) a description of local efforts or resources that will be contributed;
4 (7) provisions for site preparation, equipment security, and required technical and
5 maintenance support; and
6 (8) whether the library participates in a resource sharing system.

7 (e) The board shall adopt regulations that allow a school district, a public school, or a
8 publicly funded library to obtain classroom instructional equipment and materials related to
9 technology under a permit or lease with the department, for a project approved under
10 AS 14.30.780(b).

11 (f) The department shall administer grants awarded under this section and shall include
12 a report on the projects receiving funds as part of the department's annual report.

13 Sec. 14.30.770. POWERS AND DUTIES OF THE COMMISSIONER OF REVENUE.

14 The commissioner of revenue is the treasurer of the fund and has the following powers and duties
15 under this section:

16 (1) to act as official custodian of the cash and investments belonging to the fund
17 by securing adequate and safe custodial facilities;

18 (2) to collect the principal and income from investments owned or acquired by
19 the state treasury and deposit the amounts in separate principal and income accounts for the fund;

20 (3) to invest and reinvest the assets of the fund as provided in this section and
21 as provided for the investment of retirement funds under AS 14.25.180;

22 (4) to exercise the powers of an owner with respect to the assets of the fund;

23 (5) to do all acts, whether or not expressly authorized, that the commissioner of
24 revenue considers necessary or proper in administering the assets of the fund;

25 (6) to maintain accounting records of the fund in accordance with investment
26 accounting principles and with distinction between the principal and income accounts of the fund;

27 (7) to engage an independent firm of certified public accountants to annually audit
28 the financial condition of the fund's investments and investment transactions;

29 (8) to enter into and enforce contracts or agreements considered necessary for the
30 investment purposes of the fund;

31 (9) to report to the department the condition and investment performance of the

1 fund.

2 Sec. 14.30.780. EDUCATION TECHNOLOGY COMMITTEE. (a) The Education
3 Technology Committee is composed of the director of the division of libraries, archives, and
4 museums and six members appointed by the governor. The governor shall appoint

5 (1) four members who are educators with demonstrated education technology
6 experience;

7 (A) one from a district with 15,000 or more students;

8 (B) one from a district with at least 6,000 but less than 15,000 students;

9 (C) one from a district with at least 1,000 but less than 6,000 students; and

10 (D) one from a district with less than 1,000 students;

11 (2) one member with demonstrated education technology experience who is
12 employed by the University of Alaska; and

13 (3) one member with demonstrated education technology experience who is
14 employed by the department.

15 (b) The committee shall review project and grant applications and approve project
16 funding or award grants to a school district, a public school, or a publicly funded library from
17 the fund. In reviewing project or grant applications the committee shall consider the
18 completeness and consistency of the application in meeting the requirements of AS 14.30.760(c)
19 and (d). In funding projects or awarding grants to a school or district, the committee shall
20 incorporate the school's or district's plan for utilizing new equipment and materials. In funding
21 projects or awarding grants, the committee shall develop appropriate guidelines to ensure an
22 equitable distribution of project and grant funds. The committee shall recommend to the
23 department the best method for providing statewide teacher training and training to other
24 instructional personnel on the application and implementation of education technology as a part
25 of the classroom curriculum.

26 (c) Members of the committee serve without compensation but are entitled to receive per
27 diem and travel expenses authorized for boards and commissions under AS 39.20.180.

28 Sec. 14.30.790. DEFINITIONS. In AS 14.30.750 - 14.30.790,

29 (1) "committee" means the Education Technology Committee;

30 (2) "district" has the meaning given in AS 14.17.250;

31 (3) "fund" means the Alaska education technology fund;

revised to conform with changes on pp. 3-4

1 (4) "publicly funded library" means a library eligible for a grant under
2 AS 14.56.310.

3 * Sec. 3. Before accepting project or grant applications under AS 14.30.760(b), enacted in sec. 2 of
4 this Act, the Department of Education shall conduct

5 (1) a survey of education technology resources in public schools and publicly funded
6 libraries in the state; and

7 (2) a statewide education technology grant and project writing seminar, available to all
8 public schools, school districts, and publicly funded libraries.

9 * Sec. 4. ^[AS 14.30.750] AS 14.30.760, 14.30.770, 14.30.780, and 14.30.790 are repealed December 31, 1998.

10 * Sec. 5. This Act takes effect July 1, 1992.

Page 2, line 13, delete "instructional equipment related to" and insert "education"

Page 2, line 15, insert "education" before "technology"

Page 2, line 21, delete "required equipment" and insert "education technology"

Page 2, lines 25-26, delete "classroom instructional equipment and materials related to technology" and insert "education technology in classrooms"

Page 2, lines 26-27, delete "the instructional equipment and materials" and insert "education technology"

Page 3, line 11, insert "education" before "technology" and "selected" after "technology"

Page 3, line 16, insert "education" before "technology"

Page 3, line 17, insert "education" before "technology"

Page 3, line 26, insert "education" before "technology"

Page 3, line 28, insert "education" before "technology"

Page 3, line 31, insert "education" before "technology"

Page 4, line 1, insert "education" before "technology"

Page 4, line 8, delete "classroom instructional equipment and materials related to" and insert "education"

Page 5, line 20, delete "new equipment and materials" and insert "education technology"

Page 5, line 31, insert:

(3) "education technology" means instructional equipment and materials related to technology, including hardware, software and telecommunications, that are used to enhance the quality and increase the efficiency of teaching and learning;

ReNUMBER

Representative Kay Brown

ALASKA STATE LEGISLATURE

Legislative Information Office
3111 C Street #435
Anchorage, Alaska 99503
(907) 561-7627

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

TO: Representative Eileen MacLean, Co-Chair
Representative Mike Navarre, Co-Chair
House Finance Committee

FROM: Representative Kay Brown

DATE: January 27, 1992

RE: Revisions to CSHB 203 (Finance)/Establishing the Education
Technology Fund

Thank you for scheduling House Bill 203, An Act Establishing the Alaska Educational Technology Fund, for a new hearing before the House Finance Committee.

As you may already be aware, the Legal Affairs Division during the interim alerted me to a legal problem with my proposal for creating an Educational Technology Fund, funding it with the proceeds from the sale of general obligation bonds and using those proceeds to pay for grants. A November 7, 1991 opinion from David R. Dierdorff (attached) states that bond proceeds can't be used for grants, principally because the state must retain ownership of whatever it is constructing or purchasing with bond proceeds.

I therefore revised the legislation and asked that the bill be moved from the Rules Committee back to Finance for a new hearing. The following is an explanation of the differences between CSHB 203 (Finance) and the new draft of the bill, CS HB203 () [1/27/92 Work Draft].

CS HB203 () [1/27/92 Work Draft]

The goal of providing Alaska schools with hardware and software technology is unchanged by this new version of the bill.

This new version of the bill also creates an **Alaska Education Technology Fund**. Provisions for creating the fund are not changed from CS HB 203 (Finance). Proceeds from bond sales, direct appropriations from the legislature and donations would be credited to the fund.

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In the same manner as CS HB203 (Finance), an **Education Technology Committee** is formed and will review project proposals and requests from schools. But instead of a "grant," the schools would receive a "permit" from the Department of Education to use the hardware and software proposed in their project request and purchased by the Department. The state would retain ownership. The State Board of Education is charged with developing regulations and requirements for awarding the permits.

The Education Technology Committee would still be empowered to recommend grants to schools for teacher training. **Funds for teacher training would be secured through a general fund appropriation and are included in the Department of Education fiscal note for this bill.** Bond proceeds would not be used for training.

Provisions that establish the Commissioner of Revenue as the treasurer of the fund remain the same in the new version of the bill.

Provisions for providing new computer technology to publicly funded libraries are changed by CSHB 203 () [1/27/92 Work Draft]. CSHB 203 (Finance) amended state library statutes so that the state could provide grants to publicly funded libraries. The bill was fashioned that way because original plans called for a direct general fund appropriation to the state Division of Libraries for the purpose of awarding technology grants.

Because bond proceeds can't be used for grants, a section in CSHB 203 (Finance) that amended the library statutes is no longer necessary. **CSHB 203 () [1/27/92 Work Draft] incorporates the libraries into the Educational Technology Committee process.** The committee would also review and approve project and grant requests for technology from publicly funded libraries. **The composition of the Educational Technology Committee is changed to include the director of the state Division of Libraries, Archives and Museums.**

The 1/27/92 Work Draft makes no change in the provision that requires the Department of Education to conduct a statewide education technology project and grant-writing seminar for public schools, school districts and public libraries.

The new draft version of the bill includes a definition for publicly-funded libraries. The definition is written to ensure that all libraries now eligible for state grants would be eligible for assistance from the new technology program created by this bill.

The effective date of the bill was changed in the new draft from July 1, 1991 to July 1, 1992.

Again, thank you for your consideration of this bill. If you have any questions, please let me know or contact John Lindback of my staff at 465-4998.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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


240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

November 7, 1991

SUBJECT: Use of General Obligation Bonds to Pay Grants
(CSHB 204 ())

TO: Representative Kay Brown
Attn: John Lindback

FROM: David R. Dierdorff 
Revisor of Statutes

)
)
You have received a discussion draft of a bill authorizing the issuance of general obligation bonds to fund grants for education technology. For the reasons discussed below, it is my opinion that proceeds of general obligation bonds may not be used for grants, whether to municipalities or otherwise.

)
)
General obligation bonds are authorized by the Constitution of the State of Alaska in sections 8 and 9 of article IX.

Section 8 provides:

SECTION 8. STATE DEBT. No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective.

)
)
The phrase "for capital improvements" is an unusual limitation on the power to issue general obligation bonds, but one obvious purpose is to avoid deficit spending in the operating budget. (This limitation does not apply to enterprise revenue bonds because of the specific exemption in section 11, article IX.) For a discussion of the history of the use of that term in Alaska, see City of Juneau v. Hixson, 373 P.2d 743 (Alaska 1962) at 745 - 748, attached.

Representative Kay Brown

November 7, 1991

Page 2

Our court has not had before it that section of the constitution. Section 9 of article IX, which is the political subdivision lending section and which also contains the limitation that general obligation bonds be for "capital improvements," has been before the court. Section 9 provides:

SECTION 9. LOCAL DEBTS. No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question.

In City of Juneau v. Hixson, 373 P.2d 743 (Alaska 1962), the constitutionality of the issuance of general obligation bonds of the city to provide land to the state as a site for its capitol without cost to the state was before the Court. The Court decided the case solely on the constitutional question of whether or not the bond issue was for a capital improvement. It held that the proposed bond issue was not for a capital improvement as required by section 9 and enjoined issuance and sale of the bonds. The Court in that case stated:

The convention did more than substitute a new term -- it adopted a concept. We believe that it would be unwise for this court to attempt to provide an abstract definition of 'capital improvements'. We have concluded that it is beyond human ability to permanently circumscribe with mere words at a given point in time, a concept which, though limiting in one aspect, is otherwise intended to provide a broad, permanent and continuing authority for municipalities to finance present as well as unforeseeable future needs.

The trial court was correct in holding that the bond issue herein was not for a capital improvement. Assuming for the moment that the expenditure of money could accomplish the desired objective, the end product would lack most of the attributes usually associated with the completed public project for which general obligation bonds have been sold. No permanent asset in the form of real or personal property would accrue to the city. The property acquired by the proceeds would be donated to the state. No thing of value would remain the property of the city. No improvement of general use or service to the taxpayers of the city would have been created by the expenditure. No tangible security for the bonded indebtedness would have been created -- in fact, the total security would have been reduced by the removal of some seven acres of downtown property from the city's tax rolls.

The Court then held:

Representative Kay Brown

November 7, 1991

Page 3

Improving the welfare and prosperity of its residents and eliminating economic insecurity are legitimate laudable purposes, but we do not believe they can be financed on borrowed funds under the circumstances of this case. If accomplished, the purposes would without doubt be improvements, but they would not be capital improvements.

The question of whether a project was a capital improvement was again before the Court in Wright v. City of Palmer, 463 P.2d 326 (Alaska 1970). In that case the city proposed to issue general obligation bonds for the purpose of encouraging industrial development within the municipality. The mechanism contemplated was that the city would issue its general obligation bonds and use the proceeds for purchase of a site and the construction of a manufacturing and processing facility within the city. The facility would then be leased to a corporation for a period not less than 20 years, which was the maximum permissible maturity of the bonds, with the rental being fixed in an amount so that the total costs of the project, including amounts necessary to amortize the bonds, would be payable as rent. Numerous conditions for economic benefit of the city were also to be included in the lease. Under this arrangement title to the property remained in the city and on termination of the lease, the right of possession of the property would be in the city. The Court held that the bond issue and plan of expenditure did not violate the capital improvement requirement of article IX, section 9 of the constitution stating:

It is argued that in City of Juneau v. Hixson, 373 P.2d 743 (Alaska 1962), this court laid down a strict test of what constitutes a 'capital improvement,' rendering that term synonymous with 'public works of a permanent character.' Because an industrial development project is not clearly within that category, it is said that the plan before us must fail.

We do not read the Hixson case so narrowly. There we struck down a bond issue because no capital improvement would have resulted from the expenditure of the proceeds. The vice in the Hixson case was that raw land would have been donated to the State of Alaska as a proposed capitol site. As a result of the plan, the City of Juneau would have been left with no tangible asset in place of the indebtedness. Furthermore, the State of Alaska had entered into no agreement for and had not otherwise shown an interest in the acquisition or use of any capitol site.

By contrast, in the case before us the City of Palmer will own a tangible asset. The plan is that the indebtedness shall be retired out of the rental money received over the life of the bond issue. The land and building fulfilled the definition of 'capital improvements' which was stated in the Hixson case as being 'associated with value represent-

Representative Kay Brown

November 7, 1991

Page 4

ed by real or personal property in some form and with relative permanency.' 373 P.2d, at 747. There is here no giving away of the asset. On the contrary, the city's real ownership of the structure should increase as the years of rental payment go by. Even if the tenants should default, the building probably would be susceptible to a number of other beneficial uses. We conclude, therefore, that the bond issue and the plan of expenditure does not violate the capital improvement requirement of our constitution.

As mentioned earlier, these cases construe section 9 of article IX relating to bonding by political subdivisions of the state and not section 8 of the article relating to bonding by the state itself. It is not uncommon for courts to construe powers of local governments more strictly than powers of the state. Nevertheless, the key phrase is identical and the purpose appears identical. Logic indicates the courts would construe both phrases as substantially identical in meaning. In my opinion, the court would adopt the reasoning in these cases in construing section 8.

The fact situation involved here is almost identical with that in Hixson except that the roles are reversed and grants of money rather than grant of land purchased with the bond proceeds are involved.

In my opinion the Hixson reasoning would control and issuance of the bonds would not be constitutional.

A copy of the court decision in Hixson is enclosed, along with a copy of the relevant index page to the proceedings of the constitutional convention.

DRD:mi:lmb
91-291.lmb

Enclosure

CITY OF JUNEAU et al., Appellants.

v.

William E. HIXSON, a resident taxpayer of the City of Juneau, Alaska, Appellee.

No. 201.

Supreme Court of Alaska.

July 11, 1962.

Rehearing Denied Aug. 13, 1962.

Suit by taxpayer to enjoin city and others from issuing and selling general obligation bonds of the city. From an adverse judgment of the Superior Court, First Judicial District, James A. von der Heydt, J., the city and others appealed. The Supreme Court Nesbitt, C. J., held that proposed bond issue by home rule city to purchase land which would be conveyed to state for expansion of state capitol located within the city was not for a "capital improvement" within section of Constitution prohibiting contracting of a debt by any political subdivision except for capital improvements.

Judgment affirmed.

1. Municipal Corporations §869

A municipal corporation does not have power to borrow money unless authorized by legislation.

2. Municipal Corporations §911

Proposed bond issue by home rule city to purchase land which would be conveyed to state for expansion of state capitol located within the city was not for a "capital improvement" within section of constitution prohibiting contracting of a debt by any political subdivision except for capital improvements. Const. art. 9, §§ 6, 8, 9; art. 10, §§ 11, 13; Laws 1959, c. 167, § 1 as amended by Laws 1960, c. 185.

See publication Words and Phrases for other judicial constructions and definitions.

3. Municipal Corporations §911

The word "capital" in section of Constitution prohibiting contracting of a debt

Alaska Rep. 364-375 P. 26-17

by any political subdivision except for "capital" improvements, is used in the sense in which it is associated with assets in form of real or personal property. Const. art. 9, § 6; Laws 1959, c. 167, § 1 as amended by Laws 1960, c. 185.

See publication Words and Phrases for other judicial constructions and definitions.

4. Municipal Corporations §63(1)

It is not function of court to pass judgment on matters that lie within legislative discretion of city council, but where taxpayer of community questions constitutionality of means employed by city council to finance a civic program, Supreme Court has duty to interpret the Constitution.

Fred O. Eastaugh of Robertson, Morgan, Eastaugh & Annis, Juneau, for appellants.

Warren C. Christianson, Sitka, for appellees.

Before NESBETT, C. J., and DIMOND and AREND, JJ.

NESBETT, Chief Justice.

The plaintiff-appellee, a resident and taxpayer of Juneau, Alaska, brought this suit to enjoin the City of Juneau, its mayor and councilmen from issuing and selling one million dollars of general obligation bonds of the city.

The bond proposal was contained in resolution passed by the City Council of Juneau on April 21, 1960. The question in the proposal was whether the city should issue its general obligation bonds in an amount not to exceed one million dollars and use the proceeds to improve and acquire approximately seven acres of land within the city and convey such parts of the land to the State of Alaska from time to time, as the state required additional land for the expansion of its capital. The stated purpose of the proposal was to provide land without cost to the state for its capital which would be

...nd have been party.
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vement in location, adequate in size and practical in operating economy.¹ At a special election held on May 10, 1960, a majority of the qualified electors of the city voting on the proposal, voted in favor of it. On March 2, 1961, the city adopted an ordinance providing for the issuance and sale of one million dollars of general obligation bonds. As security for the redemption of the bonds the ordinance pledged a percentage of the revenue from the city's retail sales tax and in the event of a deficiency of revenue from that source, then from ad valorem taxes upon all the taxable property within the city.

The trial court enjoined the issuance and sale of the bonds on the grounds that the funds realized therefrom were not to be used for: (1) a "public purpose" within the meaning of that term in article IX, section 6 of the Alaska Constitution,² and (2) "capital improvements" within the meaning of article IX, section 9 of the Alaska Constitution.³ In its memorandum decision the trial court recognized that the city had approved a home rule charter which became effective on October 15, 1960, which was after the special election of May 10, 1960, when the bond proposal was approved by the electors, but before approval of the ordinance authorizing the issuance of the bonds on March 2, 1961. The decision held that the constitutional limitations had the same meaning when applied to a home rule city as when applied to a general law

city and operated with equal restraint on both.

We shall decide this case solely on the constitutional question of whether or not the bond issue was for a capital improvement.

The city argues that the contracting of a debt by it to acquire land to donate to the state for its capital is a capital improvement within the meaning of article IX, section 9 because the land would constitute a permanent investment by the residents of the city which would substantially increase the economic worth of the community and directly improve the welfare and prosperity of its residents.

In opposition appellee argues that a capital improvement is a physical improvement or betterment which results in the creation of depreciable physical assets such as sewer systems, water systems, city halls, schools and the like, which are of value to the taxpayer who finances them; that the use of the term envisages that after creation of the capital improvement, title will remain in the financing authority or a full public use of the improvement will accrue to that authority. Appellee emphasizes that the objective of the bond issue is to persuade the state that it would be to its best interests to not move the capital away from Juneau; that the state has not committed itself one way or the other with respect to the city's plan to offer to donate the land; that the city has no power of eminent domain to acquire the land from the various private

1. The proposal in its entirety states:

"PROPOSAL: Shall the City of Juneau, Alaska, issue its general obligation bonds in an amount not to exceed \$1,000,000.00 and use the proceeds thereof to improve and acquire approximately 7.0 acres of land and structures thereon, located within the City between land now owned by the State of Alaska and in the general area between Main Street and the Juneau Subport and between Second and Fifth Streets, more particularly described on the City's Capitol Site Acquisition Map, and convey such parts of the Same to the State of Alaska from time to time as it requires additional land and space for expansion of the State Capitol Center Site,

for the purpose of providing without cost to the State of Alaska a site for its Capitol which is convenient in location, adequate in size and practical in operating economy."

2. Article IX, § 6 states: "No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose."
3. Article IX, § 9 states: "No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question."

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owners for other than its own use; that as soon as the bonds are sold huge interest payments will commence to accrue; that many other contingencies lie in the way of realizing the objective of the bond issue and that even if the objective were realized, the taxpayers of Juneau would have nothing more than they already have.

[1] Since the landmark decision of the United States Supreme Court in Mayor and City Council of Nashville v. Ray in 1874 it has been established law that the power to borrow money does not belong to a municipal corporation unless conferred by legislation.⁴

[2] Prior to 1936 Alaskan cities did not have the power to incur bonded indebtedness. In that year Congress authorized municipal corporations in the Territory of Alaska to incur bonded indebtedness to "construct, improve, extend, better, repair, reconstruct, or acquire public works of a permanent character * * *." The act provided that "public work shall include but not be limited to streets, bridges, wharves and harbor facilities, sewers and sewage-disposal plants, municipal buildings, schools,

libraries, gymnasias and athletic fields, fire houses, and public utilities".⁵ The term "capital improvements" does not appear in the act. The incurring of bonded indebtedness was permitted only with respect to "public works of a permanent character". No definition of public works is given, but the act supplies examples of the types of projects considered to be included within the meaning of that term.

Cities in Alaska had been operating under the provisions of this act for twenty years by the time article IX, section 9 of the constitution was adopted. This section prohibited the contracting of a debt by any political subdivision except for "capital improvements".⁶ The term "public works" is not mentioned in this section and the term "capital improvements" is not defined. Nor are any examples provided.

The constitution became effective as the basic law of Alaska on January 3, 1959⁷ and immediately thereafter the first state legislature passed an act repealing the provisions of Alaska law which had codified the act of Congress just mentioned.⁸ This act of the state was titled as relating

ly exercised. It is too dangerous a power to be exercised by all municipal bodies indiscriminately, managed as they are by persons whose individual responsibility is not at stake."

Although established by a court that was sharply divided on the issue the doctrine became fundamental in municipal law. See *Chaborne County v. Brooks*, 111 U.S. 400, 406, 411, 4 S.Ct. 489, 29 L. Ed. 470, 472, 474 (1884); *Fullerton v. Central Lincoln People's Utility District*, 185 Or. 28, 201 P.2d 524 (1948); 15 McQuillin, *Municipal Corporations* § 43.19 (2d ed 1950).

4. 19 Wall. 468, 475, 477, 56 U.S. 468, 475, 477, 22 L.Ed. 104, 16S-160 (1874), also quoted in 2 *Anticm. Municipal Corporation Law* § 15.00 (1955), wherein the court stated:

"The power to borrow money * * * does not belong to a municipal corporation as an incident of its creation. To be possessed it must be conferred by legislation, either express or implied. It does not belong, as a mere matter of course, to local governments to raise loans. Such governments are not created for any such purpose.

* * * The idea that they have the incidental power to issue an unlimited amount of obligations of such a character as to be irretrievably binding on the people * * * is the growth of a modern misconception of their true object and character. If in the exercise of their important trusts the power to borrow money and to issue bonds or other commercial securities is needed, the Legislature can easily confer it under the proper limitations and restraints, and with proper provisions for future repayment. Without such authority it cannot be legit-

5. Act of May 28, 1930, ch. 467, § 1, 40 Stat. 1388 (48 U.S.C.A. § 44a (1952), § 10-5-1 A.C.L.A.1949).

6. We are not concerned in this case with indebtedness of political subdivisions secured by revenue bonds which is provided for in art. IX, § 11 of the constitution.

7. Exec.Proc. No. 3260, 24 Fed.Reg. 91 (1959), 48 U.S.C.A. preceding § 21 note.

8. S.L.A.1959, ch. 167.

to the issuance of municipal bonds for "public works and capital improvements".⁹ It authorized municipal corporations to incur bonded indebtedness with respect to "public works of a permanent character" just as did the original act of Congress and its examples of the type project that constituted public works were identical to those of the original act except that "off-street parking facilities" was added. Although mentioned in the title of the state act, the term "capital improvements" was nowhere used in the text, which referred only to "public works".

In 1960 the state legislature repealed and enacted an amended version of section 1 of the above mentioned act.¹⁰ The amended version omits the term "capital improvements" from the title¹¹ and employs the term "public works or facilities of a permanent nature". This act authorizes municipal corporations to incur bonded indebtedness with respect to "public works or facilities of a permanent character", lists the same projects considered to be included within the meaning of the term "public works or facilities" as did the 1959 act for "public works of a permanent character" except that there was added to the list "real property and improvements and facilities thereon for such uses or purposes as are authorized by law".

In employing the term "capital improvements" in the title of its first act the state legislature demonstrated that it was aware of the constitutional limitation with which we are here concerned.¹² It also seems reasonable to assume that the legislature considered the term to be synonymous in meaning with "public works of a per-

manent character" used in the text of the act to describe the authority thereby conferred. This conclusion is based on the fact that no attempt was made in the text of the act to give separate consideration to capital improvements as a purpose for which a municipality could incur bonded indebtedness.

Nothing in the legislative journals sheds any light on the reasoning which motivated the legislature a year later in amending the act to delete "capital improvements" from the title and employ the descriptive phrase "public works or facilities of a permanent nature". However, we can and do assume that the legislature was enacting the legislation to supplement the constitutional provision and did not intend to attempt to substitute a different purpose than that established by "capital improvements" in the constitution. Therefore, for the assistance it lends, we know that the legislature considered "public works or facilities of a permanent nature" to be synonymous with, or at least included within the meaning of "capital improvements".

As far as we are aware, the only jurisdiction that has ever been called upon to define the term "capital improvements" is New Hampshire, where the court said:

"In the absence of any definition of a capital improvement as used in the act the term 'capital improvement' must be taken in its ordinary sense of a permanent improvement or betterment as distinguished from ordinary repair or current maintenance."¹³

The dictionary reveals that the word "capital" has many meanings. The eco-

9. The full title states: "Relating to general obligation and revenue bonds issued by municipal corporations and public utility districts for public works and capital improvements; repealing 10-5-1 through 10-5-9 ACLA 1949 and substituting 10-5-1 through 10-5-6 therefor; and providing for an effective date."

10. S.L.A.1960, ch. 185.

11. The title reads: "Relating to general obligation bonds issued by municipal cor-

porations for public works or facilities of a permanent nature; amending Section 10-5-1, ACLA 1949, as amended by Chapter 167, S.L.A. 1959; and providing for an effective date."

12. Article II, § 13 of the constitution provides in part: " * * * The subject of each bill shall be expressed in the title. * * * "

13. *Lowitt v. Town of North Hampton*, 98 N.H. 193, 96 A.2d 554 (1953).

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omic definition is, "A stock of accumulated wealth." 14 "Capital assets" is defined as being synonymous with "permanent as- sets" in its general accounting use. 15 "Per- manent assets" are defined as "A resource, such as land, buildings or machinery, or capital stock of another company held for purposes of control". 16

"Capital", therefore, seems generally to be associated with value represented by real or personal property in some form and with relative permanency. "Improvement" in its broad sense means betterment.

The Constitutional Convention evidenced a clear intent to protect the financial integrity of all political subdivisions. Limiting the purposes for which they could incur indebtedness to capital improvements was one means selected. 17 This limitation was not intended to permit incurring in- debtedness to accomplish all desirable im- provements sponsored by the governing body and approved by the electorate. If this had been the intent, it would have been clearly stated by simply omitting the word "capital".

[3] There is nothing in the history of municipal bonding in Alaska, or in the minutes of the Constitutional Convention that causes us to believe that the term "capital improvements" was intended to de- note projects radically different than those for which municipalities had been per- mitted to incur bonded indebtedness in the past. We believe "capital" was used in the sense in which it is associated with as- sets in the form of real or personal prop-

erty and that it was in fact a degree of permanency. We believe that it includes the "public works of a perma- nent character" such as "streets, bridges, wharves and harbor facilities, sewers and sewage-disposal plants, municipal build- ings, schools, libraries, gymnasias and athle- tic fields, fire houses, and public utilities" as mentioned in the original act of Con- gress. 18 It includes "off-street parking facilities" and "public works or facilities of a permanent character" as provided in recent acts of the state legislature. 19 We believe that in selecting "capital improvements" the convention had in mind that it was including all the projects just mentioned which had heretofore been as- sociated with municipal bonding, but under a better generic term one which did not require illustration by actually listing the type projects that were considered to be included within its meaning and stating that the list itself was not necessary. This was done in the original act of Congress.

The convention did more than substitute a new term—it adopted a concept. We believe that it would be unwise for this court to attempt to provide an abstract definition of "capital improvements". We have con- cluded that it is beyond human ability to permanently circumscribe with mere words at a given point in time, a concept which, though limiting in one aspect, is otherwise intended to provide a broad, permanent and continuing authority for municipalities to finance present as well as unforeseeable future needs. 20

ing the State in war, meeting natural dis- asters, or redeeming indebtedness out- standing at the time this constitution be- comes effective."

18. See note 5, supra.

19. See notes 8 and 10, supra.

20. Our dilemma in trying to define the con- cept in this case is similar to that ex- perienred by the Supreme Court of Er- rors of Connecticut with respect to "pub- lic use", where the court said: "A public use" defies absolute definition, for it changes with varying conditions of so- ciety, new appliances in the sciences,

14. Webster's New International Dictionary, p. 397 (2d ed. 1939, Unabridged).

15. Id. p. 398.

16. Id. p. 166.

17. A similar restriction was placed on the state by art. IX, § 5, which states:

"No state debt shall be contracted un- less authorized by law for capital improve- ments and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as pro- vided by law and without ratification, con- tract debt for the purpose of repelling invasion, suppressing insurrection, defend-

The trial court was correct in holding that the bond issue in fact was not for a capital improvement. Assuming for the moment that the expenditure of the money could accomplish the desired objective, the end product would lack most of the attributes usually associated with the completed public project for which general obligation bonds have been sold. No permanent asset in the form of real or personal property would accrue to the city. The property acquired by the proceeds would be donated to the state. No thing of value would remain the property of the city. No improvement of general use or service to the taxpayers of the city would have been created by the expenditure. No tangible security for the bonded indebtedness would have been created—in fact, the total security would have been reduced by the removal of some seven acres of downtown property from the city's tax rolls.

The city points out that if the main purpose of the expenditure were realized, the site of the capital would remain in Juneau and this would directly improve the welfare and prosperity of the residents. Nothing in the record or arguments supports the assumption that this would happen except to the extent that the size of and activity in the capital increased with the passage of time and the natural growth of the state. Removal of the aura of economic uncertainty that is said to exist because of doubt as to whether the capital will remain in Juneau is also advanced as a purpose of the bond issue. Improving the welfare and prosperity of its residents and eliminating economic insecurity are legitimate laudable purposes, but we do not believe they can be financed on borrowed funds under the circumstances of this case. If accomplished, the purposes would without doubt be improvements, but they would not be capital improvements.

changing conceptions of the scope and functions of government, and other differing circumstances brought about by an increase in population and new modes of communication and transportation."

The city argues that unless it takes the initiative and induces the state not to move the capital, it may lose many of the economic advantages it now enjoys. This points up another characteristic of the program which sharply distinguishes it from the usual bonded indebtedness project. The state has not officially expressed any interest in the city's plan. After the bonds were sold and interest on one million dollars commenced to accrue, the state might reject the city's offer. If this happened, the existing problems of the city would become even more aggravated. In addition, the city would have acquired the burden of paying the principal and interest on the debt out of tax rolls reduced by the loss of some seven acres of valuable downtown property. Financial commitment with respect to an economic program the outcome of which is contingent on overcoming substantial legal, business and political obstacles gives the program many of the characteristics of a business or public relations venture.

[4] We are reminded that the city's program has been deliberately planned and that the court should not inquire whether the council's action was wise, dictated by the proper motives or would result in economic benefit to the residents. We agree that it is not the function of this court to pass judgment on matters that lie within the legislative discretion of the council. But where a taxpayer of a community questions the constitutionality of the means employed by his council to finance a civic program, this court has the duty to interpret the constitution. We do not pass upon the merits of the city's project. We simply hold that it is not a capital improvement and therefore cannot be financed on borrowed funds.

The city contends that it acquired greater legislative power under article X, section

Barnes v. City of New Haven, 140 Conn. S. 98 A.2d 523, 527 (1953). See also *Wilmington Parking Authority v. Ranken*, 34 Del.Ch. 439, 105 A.2d 614, 619 (1954).

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... 11 of the Alaska Constitution²¹ upon be-
 ... coming a home rule city on October 15,
 ... 1960 and that unless there is a specific
 ... statutory prohibition of the ordinance au-
 ... thorizing the issuance and sale of the bonds,
 ... it should be held to be valid. It is true
 ... that the city acquired greater legislative
 ... power upon becoming a home rule city, but
 ... by the very terms of the constitutional
 ... grant of legislative power to a home rule
 ... city it was prohibited from exercising legis-
 ... lative powers prohibited by law. Section 9
 ... is found in the "Finance and Taxation" ar-
 ... ticle of the constitution under the marginal
 ... title of "Local Debts". The restriction is
 ... specifically applicable to "any political sub-
 ... division of the State". This unequivocal
 ... wording provides a clear answer to the ar-
 ... gument that home rule cities operating un-
 ... der a charter adopted under article X of
 ... the constitution are not included. The an-
 ... swer is, they are subject to the same limi-
 ... tation with respect to contracting debts as
 ... all other political subdivisions of the state.

... Article X, section 13 of the constitution
 ... gives a local government the power to enter
 ... into agreements with any other local gov-
 ... ernment, the state or the United States un-
 ... less otherwise provided by law or charter.²²
 ... It is contended that under this power the
 ... city should be free to choose the means by
 ... which it attains a bargaining position with
 ... the state which might result in acceptance
 ... of the offer made to the state. We agree,
 ... so long as the means chosen are not pro-

21. Article X, § 11 of the Alaska Consti-
 ... tution states: "A home rule borough or
 ... city may exercise all legislative powers
 ... not prohibited by law or by charter."

22. Article X, § 13 of the Alaska Consti-
 ... tution states:

"Agreements, including those for co-
 ... operative or joint administration of any
 ... functions or powers, may be made by any
 ... local government with any other local gov-

... hilitated by law. Here the means chosen
 ... are unlawful because they are in violation
 ... of the constitutional prohibition against
 ... contracting debt except for capital improve-
 ... ments.

... Lastly the city contends that the amend-
 ... ment to chapter 185, S.L.A.1960 was made
 ... at its specific request;²³ that the addition
 ... of the words "real property and improve-
 ... ments and facilities thereon for such uses
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 ... the list of projects considered to be in-
 ... cluded within "public works or facilities of
 ... a permanent character", was made to spe-
 ... cifically authorize the purpose of the bond
 ... issue here in question. We are unable to
 ... find such an authorization in the amend-
 ... ment. The added words have been of no
 ... assistance in determining whether the bond
 ... issue is for a capital improvement because
 ... we have been unable to relate them to the
 ... facts of this case.

... The trial court in its memorandum de-
 ... cision, which constituted findings of fact
 ... and conclusions of law, held that the bond
 ... issue herein was not for a "public pur-
 ... pose" within the meaning of article IX,
 ... section 6 of the constitution.²⁴ We do not
 ... adopt this basis of the trial court's deci-
 ... sion. The judgment below is affirmed on
 ... the sole basis that the proposed bond issue
 ... was not for a "capital improvement" as re-
 ... quired by article IX, section 9 of the con-
 ... stitution.

Judgment affirmed.

... orment, with the State, or with the
 ... United States, unless otherwise provided
 ... by law or charter. A city may transfer
 ... to the borough in which it is located any
 ... of its powers or functions unless prohib-
 ... ited by law or charter, and may in like
 ... manner revoke the transfer."

23. See note 10 and text of opinion, supra.

24. Quoted in note 2, supra.

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