

**SB 190**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/12/91

FURTHER:

DATE TURNED INTO OFFICE: 5-6-91

The Finance Committee considered SENATE BILL NO. 190

"An Act relating to powers of the Alaska Safety Advisory Council; and providing for an effective date."

and recommended:

- replace with \_\_\_\_\_ CS \_\_\_\_\_
- or adopt \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- \_\_\_\_\_ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S): Dept/Date:

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DR 2/15/91

appropriation-no fiscal note

SIGNING DO-PASS:

[Signature]  
[Signature]  
[Signature]  
[Signature]

APPROVES PREVIOUS:

fiscal note(s) Dept/Date: Do Labor 2/14/91 109.5

zero fiscal note(s) \_\_\_\_\_

OTHER RECOMMENDATIONS:

[Signature] - No Rec  
[Signature] No Rec  
 \_\_\_\_\_  
 \_\_\_\_\_

1. [Signature]

2. [Signature] Do pass

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

No. 1

Version: SB 190

(S) Publish Date: 3/11/91

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Title: Alaska Safety Advisory Council

Department: \_\_\_\_\_

BRU: Treasury

Component: \_\_\_\_\_

Sponsor: Hickel

Requestor: \_\_\_\_\_

Component Serial No.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS:
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Prepared by: Brian C. Andrews

Phone: 465-2350

Division: Treasury

Date: February 15, 1991

Approved by Commissioner: 

Agency: Revenue

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



Fiscal Note Analysis for:

"An Act relating to the Alaska Safety Advisory Council"

This bill would allow the Alaska Safety Advisory Council to collect program receipts at its annual safety & health conference. These receipts would, in turn, be used to pay for the conference activities as well as other council activities.

Projected receipts for FY 92:

Annual Governor's Conference		\$109,500
Registration fees:	\$85,000	
Exhibit fees:	14,000	
Other fees:	10,500	

Projected expenses for FY 92:

Annual Governor's Conference		\$109,500
Speakers expense	\$58,000	
Conference hotel	36,000	
Portfolios/Nametags/Awards	6,000	
Miscellaneous	9,500	

If the effective date is January 1, 1991, the receipts and expenditures for FY 91 would also fall under the provisions of this bill. We estimate the receipts and expenditures will be about the same in 1991 as shown above for 1992.

**SENATE BILL NO. 190**

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/11/91

Referred: L&amp;C and Finance

**A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to powers of the Alaska Safety Advisory Council; and providing for an  
2 effective date."

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

4 \* Section 1. AS 18.60 is amended by adding a new section to read:

5 Sec. 18.60.840. POWERS OF THE COUNCIL. (a) The council may charge  
6 a fee for attendance at the annual governor's safety conference, based on the estimated  
7 cost to organize and hold the conference.

8 (b) The receipt and expenditure by the council of money from any source is  
9 subject to the Executive Budget Act (AS 37.07).

10 \* Sec. 2. Section 1 of this Act is retroactive to January 1, 1991.

11 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF LABOR

### OFFICE OF THE COMMISSIONER

P.O. BOX 21149  
JUNEAU, ALASKA 99802-1149  
PHONE: (907) 465-2700

FAX: (907) 465-2784

April 26, 1991

The Honorable Pat Pourchot, Co-Chair  
Finance Committee  
Alaska State Senate  
P.O. Box V  
Juneau, AK 99811

Dear Senator Pourchot:

I am writing to urge the Finance Committee's early consideration of Senate Bill 190. Passage of this bill is needed to bring the Alaska Safety Advisory Council into conformity with state budget/appropriation laws.


Specifically, Senate Bill 190 provides the Council with the required statutory authority to charge a fee for attendance at their annual Governor's Safety Conference. In addition, the accompanying fiscal note properly brings the Council's program receipts and expenditures into the legislative appropriation process.

Since the Council was established in 1982, it has charged conference fees and expended them outside of the state budget/legislative appropriation process. Enclosed is a copy of an opinion from the Department of Law which provides additional background information on the issue.

Passage of Senate Bill 190 is needed this year to permit the Council to continue to organize and hold its annual safety conference.

Thank you for your help; and if any additional information is needed, please let me know.

Sincerely,

  
Nancy Bear Usera  
Commissioner

NBU:kh

Enclosure

# MEMORANDUM

*X AG Opinion*  
State of Alaska  
Department of Law

TO: The Honorable Nancy Bear Usera  
Commissioner  
Department of Labor

DATE: January 4, 1991

RECEIVED  
Department of Labor

FILE NO.: 663-91-0215

Comm	<i>[Signature]</i>	
Deputy	<i>[Signature]</i>	TEL NO.:
So Asst		
So Asst		SUBJECT:
Info OH		
Adm Asst		
Int Aud		
ASD		
ESD		
LS&S		
W/G		
CC: <i>[Signature]</i>		✓
PC: <i>[Signature]</i>		✓

465-3603

Alaska Safety Advisory Council - receipt and expenditure of funds

FROM: *[Signature]*  
Office of the Commissioner  
Thomas J. Slagle  
Assistant Attorney General  
Human Services-Juneau

### ISSUE

Your predecessor, Jim Sampson, requested an opinion on whether the Alaska Safety Advisory Council (ASAC) can legally spend program receipts without going through the state budgetary or other administrative process.

The short answer is that by statute program receipts must be deposited with the Department of Revenue. Authority to receive and expend funds for a state agency must be through legislative appropriation. ASAC is a state body and the purchase of goods and services by the ASAC must conform with the State Procurement Code.

### BACKGROUND

The ASAC is established in the Department of Labor with the aim of promoting safety to reduce the menace of accidental death and injury. AS 18.60.830 -- 18.60.835. The council's 13 members are appointed by the governor and represent industry, labor, government, and the public sector. A primary responsibility of ASAC is to organize and hold the governor's annual safety conference.

ASAC generates program receipts through private donations and from fees charged to attend the annual conference. ASAC uses the program receipts to help underwrite the next conference, which includes the cost of renting a conference hall, food services, hiring speakers, and additional administrative costs. While ASAC receives an annual appropriation through the state budget, the majority of its funding is through the program receipts. ASAC has been informally advised that, to conform with state law, its budgetary program, as presently constituted, must be channeled through the legislative/state budgetary process, but the council continues to maintain a separate bank account in Anchorage to fund its program.

The Honorable Nancy Bear Usera  
Department of Labor  
Our file: 663-88-0375

January 4, 1991  
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#### LEGAL ANALYSIS

AS 18.60.830(a) provides: "There is established in the Department of Labor the Alaska Safety Advisory Council." (Emphasis added.)

The Department of Labor administrative statute in AS 23.05.030 provides: "The department shall remit to the Department of Revenue all money it receives and sign and issue vouchers for necessary disbursement." (Emphasis added.)

ASAC is established within the Department of Labor, thus the money received through program receipts must be remitted to the Department of Revenue. ASAC's failure to remit the program receipts is contrary to the above statutory obligation. In addition, AS 43.05.150 provides, in part, that the Department of Revenue shall "collect, receive, and safely keep all money of the state which is not by law entrusted to the care and custody of some other office."

The Alaska Constitution prohibits the expenditure of money absent legislative appropriation (art. IX, § 13). 1/ ASAC has made expenditures for its annual safety conference without state legislative approval or statutory authority. These expenditures are contrary to law.

The State Procurement Code (AS 36.30) provides the statutory framework for the purchase of goods and services by a state agency.

ASAC contracts to rent space and to obtain food services for its annual safety conference. Payment for the services are made through the ASAC private savings account. There is no indication that ASAC follows the procedures or regulations provided through the State Procurement Code, such as competitive bidding. The space rental and food services connected with the annual safety conference are not exceptions to the application of the State Procurement Code (AS 36.30.850 lists the exceptions). Thus, ASAC's procurement procedures are in violation of the State Procurement Code.

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1/ Alaska Const. art. IX, § 13, provides: "No money shall be withdrawn from the treasury except in accordance with appropriation made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations outstanding at the end of the period of time specified by law shall be void."

The Honorable Nancy Bear Usera  
Department of Labor  
Our file: 663-88-0375

January 4, 1991  
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CONCLUSION

State law mandates that all program receipts must be remitted to the Department of Labor for deposit with the Department of Revenue. ASAC is required by law to obtain authority to receive and expend funds through the legislative process. ASAC's current use of a savings account to deposit program receipts is contrary to state law. ASAC's procedure for obtaining goods and services for the annual safety conference is contrary to the State Procurement Code and is improper. 2/

TJS:jh:jal

cc: Doug Blankenship  
Deputy Attorney General

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2/ While not the focus of the memo, ASAC should obtain statutory authority to generate program receipts. AS 37.10.050, as amended in 1990, provides, in part:

(a) A state agency may not charge for the provision of state services unless the charge (1) is set or otherwise authorized by statute; and (2) where a regulation is necessary, is set by or provided for in a regulation that meets the standards of AS 44.62.020 and 44.62.030. A fee or other charge that is set by regulation may not exceed the estimated actual costs of the state agency in administering the activity or providing the service unless otherwise provided by the statute under which the regulation is adopted; this limitation does not apply to sales of property by a state agency. Unless specifically exempted by statute, a state agency authorized to collect or receive fees, licenses, taxes, or other money belonging to the state shall account for and remit the receipts, less fees to which the collector is entitled by statute or regulation, to the Department of Revenue at least once each month. The commissioner of administration shall separately account under AS 37.05.142 for receipts deposited under this subsection.

There is no statutory authority for ASAC to charge a fee for attendance at the annual safety conference.

WALTER J. HICKEL  
GOVERNOR



SB190

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 11, 1991

The Honorable Richard I. Eliason  
President of the Senate  
P.O. Box V  
Juneau, AK 99811

Dear President Eliason:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the powers of the Alaska Safety Advisory Council (council).

The council is made up of 13 members from industry, labor, government, and the public sector. A primary function of the council is to organize and hold an annual governor's safety conference to bring together citizens interested in safety and health matters. (AS 18.60.835) The council, through its annual safety conference and other duties, provides the people of Alaska with an important format to develop and exchange ideas relating to safety and health. The annual appropriation to the council, \$15,000, has been insufficient to cover the cost of the annual conference. Therefore, the council charges an attendance fee for the safety conference to help underwrite the cost of the next conference.

To conform with state law, the council's funding must be channeled through the state budget/legislative appropriation process. This bill provides statutory authority for the council to charge the conference attendance fee, thereby generating program receipts which must be accounted for under the Executive Budget Act (AS 37.07). Thus, the bill provides for accountability of amounts received by the council and provides a source for future legislative appropriations.

I urge your prompt action on this matter.

Sincerely,

A large, stylized handwritten signature of Walter J. Hickel in dark ink.

Walter J. Hickel  
Governor