

LEG. FINANCE - BILLS 1979 - 1980 1259

SB 78 thru SB 80 1259



RECORDS CERTIFICATION



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James O Smith
Signature of Camera Operator

3/20/90
Date

SB 78

SENATE FINANCE COMMITTEE
BILL CHECKLIST

- 1. Committee Copy-Current Bill ✓
- 2. History Cover Form ✓
- 3. Printed Copies:
 - Original Bill ✓
 - Committee Substitutes or Amendments ✓
- 4. SFC Committee Report Form ✓
- 5. Fiscal Information:
 - Note in File ✓
 - Note Requested Date
 - Other Financial Backup
 - (See Below)
- 6. Backup:
 - Handouts
 - Letter from Governor
 - Letter from Sponsor
 - Completed Committee Reports
 - Committee
 - Other


Ziegler

Introduced: 1/29/79
Referred: Judiciary

BY DANKWORTH, BRADLEY, FAHRENKAMP
AND HACKNEY

1 IN THE SENATE

2 SENATE BILL NO. 78

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to immunity and protection of
7 witnesses; and providing for an effective date."

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

9 * Section 1. AS 12.50 is amended by adding new sections to read:

10 ARTICLE 3. IMMUNITY OF WITNESSES.

11 Sec. 12.50.110. DECLARATION OF PURPOSE. The purpose of AS 12.50.
12 110 - 12.50.140 is to provide a means to solve serious felony offenses
13 committed with a high degree of secrecy, through the mechanism of wit-
14 ness immunity and, when necessary, the issuance of a court order com-
15 pelling testimony or the production of other evidence or information in
16 a criminal proceeding or investigation under specified standards con-
17 sistent with an individual's guarantee under the Constitution of the
18 United States and the Constitution of the State of Alaska not to be
19 compelled to incriminate himself. Immunity should not be extended to a
20 witness under an order compelling testimony or the production of other
21 evidence or information unless a compelling state interest has been
22 demonstrated within the context of a criminal proceeding or investiga-
23 tion in which the public interest in prosecuting the offense which is
24 the subject of a criminal proceeding or investigation is of a nature
25 sufficient to outweigh the individual privacy interests of the witness
26 as specified in AS 12.50.130(a).

27 Sec. 12.50.120. PROSECUTORIAL IMMUNITY. (a) Whenever a person
28 has been or may be called to testify in a criminal proceeding or in-
29 vestigation before or ancillary to a court or a grand jury of the

1 State of Alaska, a state prosecuting attorney may, with the written
2 concurrence of the attorney general, execute in writing a grant of
3 immunity from prosecution to him upon terms that may be agreed upon
4 between the prosecution and the prospective witness.

5 (b) Whenever a person is called to testify in a proceeding under a
6 grant of immunity under (a) of this section, the grant of immunity shall
7 be made a part of the record of the proceeding.

8 Sec. 12.50.130. ORDER COMPELLING TESTIMONY OR OTHER EVIDENCE;
9 IMMUNITY OF WITNESS FROM PROSECUTION. (a) In the case of a person who
10 has been or may be called to testify or provide other evidence or infor-
11 mation in a criminal proceeding or investigation before or ancillary to
12 a court or a grand jury of the State of Alaska, the superior court for
13 the judicial district in which the proceeding is or may be held shall
14 issue, upon the in camera, ex parte application of a state prosecuting
15 attorney with the written concurrence of the attorney general, an order
16 requiring the person to testify or provide other evidence or information
17 as requested whenever the court finds that it has first been demon-
18 strated by affidavit or otherwise through clear and convincing evidence
19 that

20 (1) the testimony or other evidence or information sought to
21 be compelled relates to and is likely to be material to an inquiry into
22 criminal activity which constitutes a felony offense or offenses, the
23 commission or attempted commission of which involves

24 (A) violence, threats of violence or a high potential
25 for violence;

26 (B) property loss or illegally obtained property of an
27 aggregate value in excess of \$10,000;

28 (C) extortion under AS 11.41.520;

29 (D) coercion under AS 11.41.530;

1 (E) theft by deception under AS 11.46.180 sufficient to
2 constitute theft in the first degree under AS 11.46.120 or theft in
3 the second degree under AS 11.46.130;

4 (F) bribery under AS 11.56.100 or receiving a bribe
5 under AS 11.56.110;

6 (G) perjury under AS 11.56.200;

7 (H) interference with official proceedings under AS 11.-
8 56.510;

9 (I) receiving a bribe by a witness or juror under
10 AS 11.56.520;

11 (J) jury tampering under AS 11.56.590; or

12 (K) misconduct by a juror under AS 11.56.600;

13 (2) the person who is the subject of the application has
14 refused or is likely to refuse to testify or provide other evidence or
15 information on the basis of his privilege against self-incrimination;
16 and

17 (3) all evidence, which the state may seek to introduce in a
18 criminal proceeding brought against a witness who is compelled to tes-
19 tify under this section, which relates to any transaction about which he
20 is compelled to testify, has been filed in sealed form in the superior
21 court.

22 (b) Whenever a witness refuses, on the basis of his privilege
23 against self-incrimination, to testify or provide other evidence or
24 information in a criminal proceeding or investigation before or ancil-
25 lary to a court or a grand jury of the State of Alaska and the person
26 presiding over the proceeding communicates to the witness an order
27 issued under (a) of this section, the witness may not refuse to comply
28 with the order and may not be excused from testifying or from providing
29 other evidence or information on the grounds that the testimony or other

1 evidence or information required of him may tend to incriminate him or
2 subject him to any penalty or forfeiture.

3 (c) No testimony or other evidence or information compelled under
4 (b) of this section which is responsive to an order issued under (a) of
5 this section, nor any evidence directly or indirectly derived from the
6 testimony or other evidence or information compelled, may be used in any
7 criminal proceeding brought against the witness nor may he be subjected
8 to any penalty or forfeiture for, or on account of, testimony or other
9 evidence of information compelled and responsive to the order, or any
10 evidence directly or indirectly derived from it; except that no witness
11 is immune or exempt under this subsection from prosecution, penalty, or
12 forfeiture for perjury, false swearing, giving a false statement, or
13 contempt committed while testifying or providing other evidence or
14 information, or failing or refusing to do so, under compulsion as pro-
15 vided in this section.

16 (d) Except in a prosecution authorized under (c) of this section,
17 only evidence filed with the superior court under (a)(3) of this section
18 may be admitted into evidence in any proceeding brought against a wit-
19 ness who has been compelled to testify or provide other evidence or
20 information.

21 (e) Before issuance of an order under (a) of this section, the
22 court shall require an assurance that necessary steps have been or will
23 be taken to provide the person who is the subject of the application and
24 members of his immediate family and household with adequate protection
25 from retribution, under AS 12.50.150.

26 (f) No person other than the witness himself may question the va-
27 lidity or otherwise challenge an order issued under (a) of this section.

28 (g) For purposes of this section, "other evidence or information"
29 means any physical object, book, paper, document, record, recording, or

1 other material.

2 Sec. 12.50.140. WILFUL FAILURE OR REFUSAL TO COMPLY WITH AN ORDER
3 COMPELLING TESTIMONY OR OTHER EVIDENCE. (a) During the time it is with-
4 in the power of a witness to comply with an order issued under AS 12.50.
5 130(a), a wilful failure or refusal to comply, without lawful excuse for
6 not complying, constitutes civil contempt. After notice and a hearing
7 before the court sitting without a jury at which the witness is afforded
8 an opportunity to show cause why he should not be found in contempt, a
9 witness who fails to establish a lawful excuse for not complying and who
10 persists in his failure or refusal to comply shall be imprisoned until he
11 complies or until it is no longer within his power to comply.

12 (b) A person who has wilfully failed or refused to comply with an
13 order issued under AS 12.50.130(a) without a lawful excuse for not
14 complying, who has been found in contempt under (a) of this section, who
15 has been afforded a further opportunity to comply, and who no longer has
16 it within his power to comply, is guilty of criminal contempt and upon
17 conviction is punishable by imprisonment for a period of not more than
18 three years or by a fine of not more than \$10,000, or by both.

19 * Sec. 2. AS 12.50 is amended by adding a new section to read:

20 ARTICLE 4. PROTECTION OF WITNESSES.

21 Sec. 12.50.150. AUTHORITY TO PROVIDE FOR PROTECTION OF WITNESSES.

22 (a) The attorney general, in cooperation with the commissioner of
23 public safety, is authorized to provide for the general safety and
24 security of a witness in a criminal proceeding or investigation and
25 members of the witness' immediate family and household whenever, in the
26 attorney general's judgment, testimony from, or a willingness to testify
27 by, such a witness would place the witness' life or person, or the life
28 or person of a member of his family or household, in jeopardy.

29 (b) The authority under (a) of this section includes, but is not

1 limited to, the authority to rent, purchase, modify, or remodel pro-
2 tected housing facilities and to otherwise offer to provide for the
3 health, safety and welfare of witnesses and persons intended to be
4 called as witnesses, and members of their immediate families and house-
5 holds.

6 (c) Any person availing himself of an offer of protection under
7 this section may do so for as long as the attorney general determines
8 the jeopardy to the witness' life or person or that of his family or
9 household continues, subject to the conditions and restrictions that may
10 from time to time be required.

11 (d) In this section, "witness" includes a potential witness.

12 * Sec. 3. DECLARATION OF PURPOSE. The purpose of secs. 3 - 6 of this Act
13 is to provide a means to solve serious felony offenses committed with a high
14 degree of secrecy, through the mechanism of witness immunity and, when neces-
15 sary, the issuance of a court order compelling testimony or the production of
16 other evidence or information in a criminal proceeding or investigation under
17 specified standards consistent with an individual's guarantee under the
18 Constitution of the United States and the Constitution of the State of Alaska
19 not to be compelled to incriminate himself. Immunity should not be extended
20 to a witness under an order compelling testimony or the production of other
21 evidence or information unless a compelling state interest has been demon-
22 strated within the context of a criminal proceeding or investigation in which
23 the public interest in prosecuting the offense which is the subject of a
24 criminal proceeding or investigation is of a nature sufficient to outweigh
25 the individual privacy interests of the witness as specified in sec. 5(a) of
26 this Act.

27 * Sec. 4. PROSECUTORIAL IMMUNITY. (a) Whenever a person has been or may
28 be called to testify in a criminal proceeding or investigation before or
29 ancillary to a court or a grand jury of the State of Alaska, a state prose-

1 cutting attorney may, with the written concurrence of the attorney general,
2 execute in writing a grant of immunity from prosecution to him upon terms
3 that may be agreed upon between the prosecution and the prospective witness.

4 (b) Whenever a person is called to testify in a proceeding under a
5 grant of immunity under (a) of this section, the grant of immunity shall be
6 made a part of the record of the proceeding.

7 * Sec. 5. ORDER COMPELLING TESTIMONY OR OTHER EVIDENCE; IMMUNITY OF
8 WITNESS FROM PROSECUTION. (a) In the case of a person who has been or may
9 be called to testify or provide other evidence or information in a criminal
10 proceeding or investigation before or ancillary to a court or a grand jury of
11 the State of Alaska, the superior court for the judicial district in which
12 the proceeding is or may be held shall issue, upon the in camera, ex parte
13 application of a state prosecuting attorney with the written concurrence of
14 the attorney general, an order requiring the person to testify or provide
15 other evidence or information as requested whenever the court finds that it
16 has first been demonstrated by affidavit or otherwise through clear and
17 convincing evidence that

18 (1) the testimony or other evidence or information sought to be
19 compelled relates to and is likely to be material to an inquiry into criminal
20 activity which constitutes a felony offense or offenses, the commission or
21 attempted commission of which involves

22 (A) violence, threats of violence or a high potential for
23 violence;

24 (B) property loss or illegally obtained property of an
25 aggregate value in excess of \$10,000;

26 (C) blackmail under AS 11.15.300;

27 (D) extortion under AS 11.20.345;

28 (E) obtaining money or property by false pretenses under
29 AS 11.20.360;

1 (F) perjury or subornation of perjury under AS 11.30.010;
2 (G) bribery under AS 11.30.040 or accepting a bribe under AS
3 11.30.050; or
4 (H) influencing witnesses, judges or jurors or obstructing
5 the administration of justice under AS 11.30.320;

6 (2) the person who is the subject of the application has refused
7 or is likely to refuse to testify or provide other evidence or information on
8 the basis of his privilege against self-incrimination; and

9 (3) all evidence, which the state may seek to introduce in a
10 criminal proceeding brought against a witness who is compelled to testify
11 under this section, which relates to any transaction about which he is com-
12 pelled to testify, has been filed in sealed form in the superior court.

13 (b) Whenever a witness refuses, on the basis of his privilege against
14 self-incrimination, to testify or provide other evidence or information in a
15 criminal proceeding or investigation before or ancillary to a court or a
16 grand jury of the State of Alaska and the person presiding over the proceed-
17 ing communicates to the witness an order issued under (a) of this section,
18 the witness may not refuse to comply with the order and may not be excused
19 from testifying or from providing other evidence or information on the
20 grounds that the testimony or other evidence or information required of him
21 may tend to incriminate him or subject him to any penalty or forfeiture.

22 (c) No testimony or other evidence or information compelled under (b)
23 of this section which is responsive to an order issued under (a) of this sec-
24 tion, nor any evidence directly or indirectly derived from the testimony or
25 other evidence or information compelled, may be used in any criminal proceed-
26 ing brought against the witness nor may he be subjected to any penalty or
27 forfeiture for, or on account of, testimony or other evidence or information
28 compelled and responsive to the order, or any evidence directly or indirectly
29 derived from it; except that no witness is immune or exempt under this sub-

1 section from prosecution, penalty, or forfeiture for perjury, false swearing,
2 giving a false statement, or contempt committed while testifying or providing
3 other evidence or information, or failing or refusing to do so, under compul-
4 sion as provided in this section.

5 (d) Except in a prosecution authorized under (c) of this section, only
6 evidence filed with the superior court under (a)(3) of this section may be
7 admitted into evidence in any proceeding brought against a witness who has
8 been compelled to testify or provide other evidence or information.

9 (e) Before issuance of an order under (a) of this section, the court
10 shall require an assurance that necessary steps have been or will be taken to
11 provide the person who is the subject of the application and members of his
12 immediate family and household with adequate protection from retribution,
13 under AS 12.50.150.

14 (f) No person other than the witness himself may question the validity
15 or otherwise challenge an order issued under (a) of this section.

16 (g) For purposes of this section, "other evidence or information" means
17 any physical object, book, paper, document, record, recording, or other
18 material.

19 * Sec. 6. WILFUL FAILURE OR REFUSAL TO COMPLY WITH AN ORDER COMPELLING
20 TESTIMONY OR OTHER EVIDENCE. (a) During the time it is within the power of
21 a witness to comply with an order issued under sec. 5(a) of this Act, a
22 wilful failure or refusal to comply, without lawful excuse for not complying,
23 constitutes civil contempt. After notice and a hearing before the court
24 sitting without a jury at which the witness is afforded an opportunity to
25 show cause why he should not be found in contempt, a witness who fails to
26 establish a lawful excuse for not complying and who persists in his failure
27 or refusal to comply shall be imprisoned until he complies or until it is no
28 longer within his power to comply.

29 (b) A person who has wilfully failed or refused to comply with an

1 order issued under sec. 5(a) of this Act without a lawful excuse for not
2 complying, who has been found in contempt under (a) of this section, who
3 has been afforded a further opportunity to comply, and who no longer has
4 it within his power to comply, is guilty of criminal contempt and upon
5 conviction is punishable by imprisonment for a period of not more than
6 three years or by a fine of not more than \$10,000, or by both.

7 * Sec. 7. Sections 3 - 6 of this Act terminate on December 31, 1979.

8 * Sec. 8. Section 1 of this Act takes effect January 1, 1980. The re-
9 mainder of this Act takes effect immediately in accordance with AS 01.10.-
10 070(c).

ALASKA STATE LEGISLATURE

ELEVENTH Legislature FIRST Session

SENATE BILL NO. 78

By DANKWORTH, BRADLEY, FAHRENKAMP AND HACKNEY

"An Act relating to immunity and protection of witnesses; and providing for an effective date."

Introduced in the Senate 1/29/79

HISTORY IN THE SENATE

19 79

1 29

2 14

Read first time and referred to Committee on Judiciary

Reported back with recommendation that *Just*
do pass.
I do not pass. Do not rec. refer to Finance 170 Finance

Read second time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reported correctly engrossed
Signed by President
Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Read first time and referred to Committee on

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PASS Effective Date
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Reconsideration

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reported correctly engrossed
Signed by Speaker
Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 78
 Title "An Act relating to immunity and protection of witnesses . . ."
 Requested by Senate Judiciary Committee Date Feb. 6, 1979

II. FISCAL DETAIL

Agency Affected LAW
 Program Category Affected Administration of Justice
 Budget Request Unit(s) Affected Prosecution

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		25.0	26.5	28.1	29.8	31.6
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		25.0	26.5	28.1	29.8	31.6

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND		25.0	26.5	28.1	29.8	31.6
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME		-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Granting of immunity as proposed by Article 3 will have little, if any, financial impact and any changes which might occur therefrom would be slight. The proposed Article 4 will cause a financial impact estimated at \$25,000 for the first year. This figure represents a minimum amount necessary for short-term, two or three week periods, when witnesses would be placed in safe housing. Obviously, there will be years when much if not all of the appropriation will lapse. Ongoing costs have been projected using a 6% inflation factor.

IV. DATE February 6, 1979 PREPARED BY Richard I. Pegues Admin. Officer
 AGENCY LAW
 PHONE 465-3695
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

4322

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF — STATE CAPITOL

JUNEAU 99801

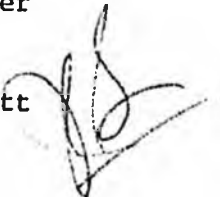
January 31, 1979

MEMORANDUM

TO: Senator Ziegler

FROM: Senator Sackett

SUBJECT: SB 78



I have been advised by the Department of Public Safety that this bill will have a "substantial fiscal impact." Preparation of a fiscal note is in process.

I, therefore, request that SB 78 be referred to the Senate Finance Committee when it leaves Judiciary.

*See ask fact
Monday*

*\$ 317,000 Comm. rejected
Dept of Law - 25,000
Did not allow submission
because he didn't think it
would be approved.*

*Tryg Herman will have fiscal note
by ~~1/29~~? Rept week 2/6?*

Introduced: 1/29/79
Referred: Judiciary

BY DANKWORTH, BRADLEY, FAHRENKAMP
A.D HACKNEY

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13 committed with a high degree of secrecy, through the mechanism of wit-
14 ness immunity and, when necessary, the issuance of a court order com-
15 pelling testimony or the production of other evidence or information in
16 a criminal proceeding or investigation under specified standards con-
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19 compelled to incriminate himself. Immunity should not be extended to a
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11 mation in a criminal proceeding or investigation before or ancillary to
12 a court or a grand jury of the State of Alaska, the superior court for
13 the judicial district in which the proceeding is or may be held shall
14 issue, upon the in camera, ex parte application of a state prosecuting
15 attorney with the written concurrence of the attorney general, an order
16 requiring the person to testify or provide other evidence or information
17 as requested whenever the court finds that it has first been demon-
18 strated by affidavit or otherwise through clear and convincing evidence
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20 (1) the testimony or other evidence or information sought to
21 be compelled relates to and is likely to be material to an inquiry into
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24 members of his immediate family and household with adequate protection
25 from retribution, under AS 12 50.150.

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28 (g) For purposes of this section, "other evidence or information"
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6 not complying, constitutes civil contempt. After notice and a hearing
7 before the court sitting without a jury at which the witness is afforded
8 an opportunity to show cause why he should not be found in contempt, a
9 witness who fails to establish a lawful excuse for not complying and who
10 persists in his failure or refusal to comply shall be imprisoned until he
11 complies or until it is no longer within his power to comply.

12 (b) A person who has wilfully failed or refused to comply with an
13 order issued under AS 12.50.130(a) without a lawful excuse for not
14 complying, who has been found in contempt under (a) of this section, who
15 has been afforded a further opportunity to comply, and who no longer has
16 it within his power to comply, is guilty of criminal contempt and upon
17 conviction is punishable by imprisonment for a period of not more than
18 three years or by a fine of not more than \$10,000, or by both.

19 * Sec. 2. AS 12.50 is amended by adding a new section to read:

20 ARTICLE 4. PROTECTION OF WITNESSES.

21 Sec. 12.50.150. AUTHORITY TO PROVIDE FOR PROTECTION OF WITNESSES.

22 (a) The attorney general, in cooperation with the commissioner of
23 public safety, is authorized to provide for the general safety and
24 security of a witness in a criminal proceeding or investigation and
25 members of the witness' immediate family and household whenever, in the
26 attorney general's judgment, testimony from, or a willingness to testify
27 by, such a witness would place the witness' life or person, or the life
28 or person of a member of his family or household, in jeopardy.

29 (b) The authority under (a) of this section includes, but is not

1 limited to, the authority to rent, purchase, modify, or remodel pro-
2 tected housing facilities and to otherwise offer to provide for the
3 health, safety and welfare of witnesses and persons intended to be
4 called as witnesses, and members of their immediate families and house-
5 holds.

6 (c) Any person availing himself of an offer of protection under
7 this section may do so for as long as the attorney general determines
8 the jeopardy to the witness' life or person or that of his family or
9 household continues, subject to the conditions and restrictions that may
10 from time to time be required.

11 (d) In this section, "witness" includes a potential witness.

12 * Sec. 3. DECLARATION OF PURPOSE. The purpose of secs. 3 - 6 of this Act
13 is to provide a means to solve serious felony offenses committed with a high
14 degree of secrecy, through the mechanism of witness immunity and, when neces-
15 sary, the issuance of a court order compelling testimony or the production of
16 other evidence or information in a criminal proceeding or investigation under
17 specified standards consistent with an individual's guarantee under the
18 Constitution of the United States and the Constitution of the State of Alaska
19 not to be compelled to incriminate himself. Immunity should not be extended
20 to a witness under an order compelling testimony or the production of other
21 evidence or information unless a compelling state interest has been demon-
22 strated within the context of a criminal proceeding or investigation in which
23 the public interest in prosecuting the offense which is the subject of a
24 criminal proceeding or investigation is of a nature sufficient to outweigh
25 the individual privacy interests of the witness as specified in sec. 5(a) of
26 this Act.

27 * Sec. 4. PROSECUTORIAL IMMUNITY. (a) Whenever a person has been or may
28 be called to testify in a criminal proceeding or investigation before or
29 ancillary to a court or a grand jury of the State of Alaska, a state prose-

1 cutting attorney may, with the written concurrence of the attorney general,
2 execute in writing a grant of immunity from prosecution to him upon terms
3 that may be agreed upon between the prosecution and the prospective witness.

4 (b) Whenever a person is called to testify in a proceeding under a
5 grant of immunity under (a) of this section, the grant of immunity shall be
6 made a part of the record of the proceeding.

7 * Sec. 5. ORDER COMPELLING TESTIMONY OR OTHER EVIDENCE; IMMUNITY OF
8 WITNESS FROM PROSECUTION. (a) In the case of a person who has been or may
9 be called to testify or provide other evidence or information in a criminal
10 proceeding or investigation before or ancillary to a court or a grand jury of
11 the State of Alaska, the superior court for the judicial district in which
12 the proceeding is or may be held shall issue, upon the in camera, ex parte
13 application of a state prosecuting attorney with the written concurrence of
14 the attorney general, an order requiring the person to testify or provide
15 other evidence or information as requested whenever the court finds that it
16 has first been demonstrated by affidavit or otherwise through clear and
17 convincing evidence that

18 (1) the testimony or other evidence or information sought to be
19 compelled relates to and is likely to be material to an inquiry into criminal
20 activity which constitutes a felony offense or offenses, the commission or
21 attempted commission of which involves

22 (A) violence, threats of violence or a high potential for
23 violence;

24 (B) property loss or illegally obtained property of an
25 aggregate value in excess of \$10,000;

26 (C) blackmail under AS 11.15.300;

27 (D) extortion under AS 11.20.345;

28 (E) obtaining money or property by false pretenses under
29 AS 11.20.360;

1 (F) perjury or subornation of perjury under AS 11.30.010;
2 (G) bribery under AS 11.30.040 or accepting a bribe under AS
3 11.30.050; or

4 (H) influencing witnesses, judges or jurors or obstructing
5 the administration of justice under AS 11.30.320;

6 (2) the person who is the subject of the application has refused
7 or is likely to refuse to testify or provide other evidence or information on
8 the basis of his privilege against self-incrimination; and

9 (3) all evidence, which the state may seek to introduce in a
10 criminal proceeding brought against a witness who is compelled to testify
11 under this section, which relates to any transaction about which he is com-
12 pelled to testify, has been filed in sealed form in the superior court.

13 (b) Whenever a witness refuses, on the basis of his privilege against
14 self-incrimination, to testify or provide other evidence or information in a
15 criminal proceeding or investigation before or ancillary to a court or a
16 grand jury of the State of Alaska and the person presiding over the proceed-
17 ing communicates to the witness an order issued under (a) of this section,
18 the witness may not refuse to comply with the order and may not be excused
19 from testifying or from providing other evidence or information on the
20 grounds that the testimony or other evidence or information required of him
21 may tend to incriminate him or subject him to any penalty or forfeiture.

22 (c) No testimony or other evidence or information compelled under (b)
23 of this section which is responsive to an order issued under (a) of this sec-
24 tion, nor any evidence directly or indirectly derived from the testimony or
25 other evidence or information compelled, may be used in any criminal proceed-
26 ing brought against the witness nor may he be subjected to any penalty or
27 forfeiture for, or on account of, testimony or other evidence of information
28 compelled and responsive to the order, or any evidence directly or indirectly
29 derived from it; except that no witness is immune or exempt under this sub-

1 section from prosecution, penalty, or forfeiture for perjury, false swearing,
2 giving a false statement, or contempt committed while testifying or providing
3 other evidence or information, or failing or refusing to do so, under compul-
4 sion as provided in this section.

5 (d) Except in a prosecution authorized under (c) of this section, only
6 evidence filed with the superior court under (a)(3) of this section may be
7 admitted into evidence in any proceeding brought against a witness who has
8 been compelled to testify or provide other evidence or information.

9 (e) Before issuance of an order under (a) of this section, the court
10 shall require an assurance that necessary steps have been or will be taken to
11 provide the person who is the subject of the application and members of his
12 immediate family and household with adequate protection from retribution,
13 under AS 12.50.150.

14 (f) No person other than the witness himself may question the validity
15 or otherwise challenge an order issued under (a) of this section.

16 (g) For purposes of this section, "other evidence or information" means
17 any physical object, book, paper, document, record, recording, or other
18 material.

19 * Sec. 6. WILFUL FAILURE OR REFUSAL TO COMPLY WITH AN ORDER COMPELLING
20 TESTIMONY OR OTHER EVIDENCE. (a) During the time it is within the power of
21 a witness to comply with an order issued under sec. 5(a) of this Act, a
22 wilful failure or refusal to comply, without lawful excuse for not complying,
23 constitutes civil contempt. After notice and a hearing before the court
24 sitting without a jury at which the witness is afforded an opportunity to
25 show cause why he should not be found in contempt, a witness who fails to
26 establish a lawful excuse for not complying and who persists in his failure
27 or refusal to comply shall be imprisoned until he complies or until it is no
28 longer within his power to comply.

29 (b) A person who has wilfully failed or refused to comply with an

1 order issued under sec. 5(a) of this Act without a lawful excuse for not
2 complying, who has been found in contempt under (a) of this section, who
3 has been afforded a further opportunity to comply, and who no longer has
4 it within his power to comply, is guilty of criminal contempt and upon
5 conviction is punishable by imprisonment for a period of not more than
6 three years or by a fine of not more than \$10,000, or by both.

7 * Sec. 7. Sections 3 - 6 of this Act terminate on December 31, 1979.

8 * Sec. 8. Section 1 of this Act takes effect January 1, 1980. The re-
9 mainder of this Act takes effect immediately in accordance with AS 01.10.-
10 070(c).



RECORDS



CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O Smith
Signature of Camera Operator

3/20/90
Date

COMMITTEE REPORT HOUSE

FURTHER:

March 20, 1979

Date: 5-1-80

Mr. Speaker:

The Committee on FINANCE has had CSSB 80

"An Act making transfers between general fund appropriations, affecting the University of Alaska for the 1977 and 1978 fiscal years; eff. date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^{CS}CS for CSSB 80 same title
 new title
- and recommends it do pass
- AND attaches a "Letter of Intent" New Fiscal Note #45M
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

Freeman

McKinney

Smith

Rosen

W. J. ...

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

Thompson - 3M

M. J. ... - 7M

Freeman
Vice CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HCS for CSSB 80
 Title "An Act establishing the University of Alaska working capital reserve
 Requested by fund; and providing for an effective date Date

II. FISCAL DETAIL
 Agency Affected University of Alaska
 Program Category Affected N/A
 BRU, Program, or Subprogram(s) Affected N/A
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS		4,500.0				
TOTAL		4,500.0				

FUNDING (Thousands of Dollars)

GENERAL FUND	4,500.0				
FEDERAL FUNDS					
OTHER (Specify Fund Source)					

POSITIONS

FULL TIME					
PART TIME					
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)



Oral Freeman, Vice Chairman
House Finance Committee
May 1, 1980

IV. DATE _____ PREPARED BY _____
 AGENCY _____
 PHONE _____
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Chinn

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE FINANCE COMMITTEE
 2 HOUSE CS FOR CS FOR SENATE BILL NO. 80
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA
 4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the University of Alaska working
 7 capital reserve fund; and providing for an effective
 8 date."

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

10 * Section 1. AS 14.40 is amended by adding a new section to read:

11 Sec. 14.40.296. WORKING CAPITAL RESERVE FUND. (a) There is
 12 established in the treasury of the University of Alaska the University
 13 of Alaska working capital reserve fund. The fund consists of money
 14 appropriated by the legislature for the purpose of providing nonlapsing
 15 current working capital for the University of Alaska and is not available
 16 for appropriation by the Board of Regents.

17 (b) A quarterly report of the activity of the working capital
 18 reserve fund shall be submitted by the University of Alaska to the
 19 Legislative Budget and Audit Committee.

20 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
 21 070(c).

MEMORANDUM

State of Alaska

TO:

Legislative Affairs

DEPT. _____

DIV. _____

SEC. _____

DATE : May 1, 1980

FROM: Vicki Wilson
House Finance Committee
Cap Bldg Rm 519
3795/3796

SUBJECT: HCS for CSSB 80

Please prepare a House Finance Committee Substitute for CSSB 80 as per attached and return to me as soon as possible. Thanks.

Legislative Information Office
101 College Road, Building F
Fairbanks, Alaska 99701
452 4117

Introduced: 1/29/79
Referred: Health, Education,
& Social Services and
Finance

Funding Information:

General Fund: ~~\$4,867,500~~
Other Funds: -0-
~~\$4,867,500~~

IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

HCS SENATE BILL NO. 80

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

6 For an Act entitled: "An Act ~~relating to appropriations for management~~
7 ~~appropriation and program receipts by the University~~
8 ~~of Alaska and~~ establishing the University of Alaska
9 working capital reserve fund; and providing for an
10 effective date."

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

12 * Section 1. AS 14.40 is amended by adding a new section to read:

13 Sec. 14.40.296. WORKING CAPITAL RESERVE FUND. (a) There is
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15 of Alaska working capital reserve fund. The fund consists of money
16 appropriated by the legislature for the purpose of providing nonlapsing
17 current working capital for the University of Alaska and is not avail-
18 able for appropriation by the Board of Regents.

19 (b) A quarterly report of the activity of the working capital
20 reserve fund shall be submitted by the University of Alaska to the
21 Legislative Budget and Audit Committee.

22 * Sec. 2. AS 37.25 is amended by adding new sections to read:

23 Sec. 37.25.030. UNIVERSITY OF ALASKA PROGRAM RECEIPTS. (a)
24 During a fiscal year, program receipts received by the University of
25 Alaska which exceed the amount appropriated from that source for that
26 year may be expended by the Board of Regents of the University of Alaska
27 in accordance with procedures established by the board.

28 (b) Program receipts which may be expended by the Board of Regents
29 under (a) of this section which are unexpended and unobligated at the

1 end of the fiscal year in which received may be carried forward to
2 following fiscal years and expended by the Board of Regents in accor-
3 dance with procedures established by the board.

4 Sec. 37.25.035. APPROPRIATIONS TO UNIVERSITY OF ALASKA. (a) An
5 appropriation to the University of Alaska which is identified as an
6 appropriation for organized research of the university is valid for the
7 duration of the research project for which it is made. The unexpended
8 and unobligated balance of the appropriation may be carried forward to
9 following fiscal years and expended by the Board of Regents in accor-
10 dance with procedures established by the board.

11 (b) Between July 1 and August 31 of each fiscal year, a statement
12 indicating the amount of the unexpended and unobligated balances carried
13 forward by the Board of Regents to the next fiscal year under AS 37.25.-
14 030 and (a) of this section shall be filed with the Commissioner of
15 administration. If a portion of the unexpended and unobligated balance
16 of an appropriation is needed to complete a research project under (a)
17 of this section, the statement shall indicate the amount estimated as
18 necessary to complete the project and the amount which may be lapsed.

19 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
20 070(c).

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HCS for CSSB 80
 Title "An Act establishing the University of Alaska working capital reserve
 Requested by fund; and providing for an effective date Date

II. FISCAL DETAIL

Agency Affected University of Alaska
 Program Category Affected N/A
 BRU, Program, or Subprogram(s) Affected N/A

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS		4,500.0				
TOTAL		4,500.0				

FUNDING (Thousands of Dollars)

GENERAL FUND	4,500.0				
FEDERAL FUNDS					
OTHER (Specify Fund Source)					

POSITIONS

FULL TIME					
PART TIME					
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)



Oral Freeman, Vice Chairman
House Finance Committee
May 1, 1980

IV. DATE _____ PREPARED BY _____
 AGENCY _____
 PHONE _____

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 80

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the University of Alaska working
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15 current working capital for the University of Alaska and is not available
16 for appropriation by the Board of Regents.

17 (b) A quarterly report of the activity of the working capital
18 reserve fund shall be submitted by the University of Alaska to the
19 Legislative Budget and Audit Committee.

20 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
21 070(c).

Original sponsor: Rules/Governor

Offered: 3/15/79

Referred: Rules

Funding Information

General Fund -0-

Other Funds -0-

-0-

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 80

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making transfers betwe. general fund appro-

7

priations affecting the University of Alaska for the

8

1977 and 1978 fiscal years; and providing for an

9

effective date."

10

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

11

* Section 1. Section 8, ch. 153, SLA 1977, at page 3 is amended to read:

12

Funding Source

Operating Budget

Total Budget

13

General Fund

727,560,200 [731,272,100]

768,537,100 [772,249,800]

14

* Sec. 2. Section 12, ch. 153, SLA 1977, page 63, lines 6 - 12, is

15

amended to read:

16

University of Alaska

17

Federal Receipts

33,888,800

18

General Fund Match

2,050,600

19

General Fund

54,552,900 [58,264,800]

20

Program Receipts

9,083,300

21

Student Fees, University of Alaska

5,596,600

22

Total Funding

105,172,200 [108,884,100]

23

* Sec. 3. Section 18(a), ch. 279, SLA 1976, page 6, is amended by adding

24

a new line following the name "University of Alaska" to read:

25

Appropriation

General

26

Item

Fund

27

UNIVERSITY OF ALASKA

28

University of Alaska

29

Unallocated Deficit

3,711,900

3,711,900

1 * Sec. 4. Section 18(a), ch. 279, SLA 1976, page 11, lines 1 - 11, is
2 amended to read:

3 Category Fund Sources

4	Federal Receipts	499,300
5	General Fund	<u>55,811,900</u> [52,100,000]
6	Program Receipts	9,357,000
7	Student Fees - U of A	4,506,000
8	Overhead - U of A	2,919,700
9	Restricted Receipts - U of A	24,326,500
10	Total Funding-University of	
11	Alaska	<u>97,420,400</u> [93,708,500]

12 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).

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Original sponsor: Rules/Governor

Offered: 3/15/79
Referred: Rules

Funding Information

General Fund	-0-
Other Funds	-0-
	<u>-0-</u>

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 80

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

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7 priations affecting the University of Alaska for the
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Funding Source	Operating Budget	Total Budget
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16 University of Alaska

Federal Receipts	33,888,800
General Fund Match	2,050,600
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Total Funding	<u>105,172,200</u> [108,884,100]

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	Appropriation	General
	Item	Fund
27 UNIVERSITY OF ALASKA		
28 University of Alaska		
29 <u>Unallocated Deficit</u>	<u>3,711,900</u>	<u>3,711,900</u>

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2 amended to read:

3 Category Fund Sources

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8	Overhead - U of A	2,919,700
9	Restricted Receipts - U of A	24,326,500
10	Total Funding-University of	
11	Alaska	<u>97,420,400</u> [93,708,500]

12 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).

list sybudget/sybud-2,r

DECEMBER 16, 1978

MR. RONALD B. LIND, DIRECTOR
DIVISION OF BUDGET AND MANAGEMENT
OFFICE OF THE GOVERNOR
POUCH A4
JUNEAU, ALASKA 99811

DEAR RON:

THIS LETTER DISCUSSES THE MATTER OF THE UNIVERSITY'S SUPPLEMENTAL APPROPRIATION REQUESTS FOR THE CURRENT FISCAL YEAR. ASHOK DHINGRA TALKED WITH FRANK SPARGO REGARDING THE INFORMATION WHICH NOW IS NEEDED BY YOUR OFFICE. SUCH INFORMATION IS PRESENTED BELOW.

THE BOARD OF REGENTS, DURING ITS MEETING ON DECEMBER 15, 1978, AUTHORIZED THE UNIVERSITY ADMINISTRATION TO REQUEST FOUR SUPPLEMENTAL APPROPRIATIONS FOR FY 1979 AS FOLLOWS:

1. \$4,872,598 APPROPRIATIONS SCHEDULED TO LAPSE. THIS MONEY WAS APPROPRIATED BY THE LEGISLATURE FOR THE UNIVERSITY FOR LAST FISCAL YEAR BUT WAS NOT SPENT BY THE UNIVERSITY. TO RETURN THIS MONEY TO THE STATE WOULD REQUIRE THAT THE UNIVERSITY SIMULTANEOUSLY BORROW ADDITIONAL FUNDS FROM THE STATE. WHEREAS, IF THE STATE WILL PERMIT THE UNIVERSITY TO KEEP THIS FUNDING WHICH THE UNIVERSITY SAVED LAST FISCAL YEAR, THE UNIVERSITY WILL BE ABLE TO ELIMINATE ITS UNFUNDED DEFICIT (WHICH OTHERWISE WILL BE \$3,711,899) AND ITS INDEBTEDNESS TO THE STATE (WHICH NOW TOTALS \$1,000,000) AND ALSO IMPROVE ITS WORKING CAPITAL POSITION. A PROPOSAL FOR LEGISLATION FOR THIS SUPPLEMENTAL APPROPRIATION REQUEST IS ATTACHED.
2. \$200,000 FOR UAF LIBRARY AND \$38,400 FOR UAJ LIBRARY. THE BOARD OF REGENTS REQUESTED AND RECEIVED THE FOLLOWING FUNDING FOR UNIVERSITY LIBRARIES FOR FY 1979: FOR UAF -- REQUESTED \$200,000, RECEIVED \$100,000; FOR UAA REQUESTED \$150,000, AND RECEIVED \$500,000; AND FOR UAJ REQUESTED \$38,400 AND RECEIVED NOTHING.
3. \$38,500 TO FUND GRIEVANCE PROCEDURE. THE UA BUDGET REQUEST FOR FY 1979 INCLUDED \$199,600 FOR FUNDING THE COMMUNITY COLLEGE CONTRACT, WHICH MONEY WAS NOT PROVIDED. INCLUDED WITHIN THAT AMOUNT WAS \$38,500 TO PAY FOR THE GRIEVANCE PROCEDURE. THE REASONS FOR THE LEGISLATURE'S FAILURE TO FUND THAT PART OF THE UNIVERSITY'S REQUEST IS NOT APPARENT. THIS MAY HAVE BEEN THE RESULT OF AN OVERSIGHT -- THE LEGISLATURE MAY NOT HAVE INTENDED TO WITHHOLD APPROVAL OF THAT ITEM. IN ANY EVENT, WITHOUT THIS FUNDING, THE UNIVERSITY IS UNABLE TO MEET ITS RESPONSIBILITIES UNDER THE PUBLIC EMPLOYMENT RELATIONS ACT.

4.. \$55,429 FOR OPERATING COSTS FOR THE TANANA VALLEY COMMUNITY COLLEGE. THE UNIVERSITY'S FY 1978 GO BOND PACKAGE INCLUDES \$2.3 MILLION FOR THE PURCHASE OF A BUILDING FOR TVCC. IT IS ANTICIPATED THAT THE UNIVERSITY WILL PURCHASE THIS BUILDING BY FEBRUARY OF 1979 AND THAT OPERATING FUNDS FOR THE FACILITY FOR THE BALANCE OF THIS FISCAL YEAR WILL BE AS SHOWN BELOW. THIS FUNDING WILL PAY FOR SUCH THINGS AS UTILITIES AND FOR ONE CUSTODIAL MAINTENANCE WORKER; THAT PERSON WILL BE NEEDED THROUGHOUT THE BALANCE OF THIS YEAR IN ORDER TO PROVIDE SECURITY FOR THE FACILITY AND PERFORM CUSTODIAL WORK. TANANA VALLEY COMMUNITY COLLEGE IS EXPECTED TO BE READY TO MAKE USE OF THIS FACILITY ABOUT MAY.

Mr. J. Reynolds approved

PERSONAL SERVICES:	\$7,516
CONTRACTUAL	33,913
COMMODITIES:	3,000
CAPITAL ACQUISITIONS:	6,000

TOTAL: \$55,429

PLEASE LET ME KNOW IF ADDITIONAL INFORMATION IS NEEDED.

SINCERELY,

SHERMAN F. CARTER
VICE PRESIDENT FOR FINANCE

SFC/DR

CC: PRESIDENT FOSTER DIEBOLD

STATE
of ALASKA

MEMORANDUM

TO: Art Peterson
 Assistant Attorney General
 Department of Law

FROM: *RL*
 Ron Lind, Director
 Division of Budget & Management
 Office of the Governor

DATE: January 11, 1979

FILE NO:

TELEPHONE NO:

SUBJECT: Supplemental Appropriation

SB 80

Please prepare a bill for the Governor's introduction making a supplemental appropriation in the amount of \$4,829,000 or the lapse as a result of 1978 University operations, whichever is less, to the University of Alaska for the purpose of removing the deficit stated in their annual report (\$3,734,000) and establishing a working capital fund. The working capital fund may be used only for providing a cash working reserve and not to fund programs.

This \$4,829,000 should be appropriated from the general fund.

This act should take effect immediately and include a lapse date of June 30, 1979.

ok 80
oc

January 27, 1979

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making supplemental appropriations to the University of Alaska.

As a result of improved cost controls, the university was able to avoid spending \$4,829,000 of general fund money in FY 78. While these funds would normally lapse to the state, the university is in a unique position, as a non-profit corporation, of having to maintain its own working capital funds and of having its own accounting records. There is currently a deficit shown on the records from previous years, and the working capital funds are too small to support daily operations. The appropriation in sec. 1 is requested for FY 79 for the purpose of removing the deficit and increasing the university's working capital fund.

The 1978 legislature inadvertently omitted funding for FY 79 to pay the costs of arbitration of grievances with the Alaska Community Colleges' Federation of Teachers. The appropriation in sec. 2 of this bill is solely for the purpose of paying for arbitration costs.

Sincerely,

S/SSH

Jay S. Hammond
Governor



Official Business

Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

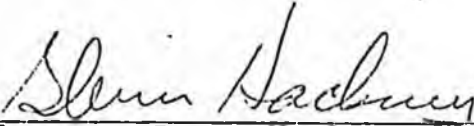
Pouch V
State Capitol
Juneau, Alaska 99811

Glenn Hackney, Chairman
Frank Ferguson, Vice Chairman
Mike Colletta
Bettye Fahrenkamp
Arliss Sturgulewski

March 7, 1979

SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE LETTER OF INTENT FOR SB 80

The Senate Health, Education and Social Services Committee feels the University of Alaska has made good faith efforts to comply with legislative requests to get its financial affairs in order. It is the intent of the Health, Education and Social Services Committee in passing out SB 80 that the University should be allowed a fund for flexibility of operations. However, the Committee feels that the Finance Committee should look carefully at the appropriateness of the figure called for in SB 80.



Senator Glenn Hackney
Chairman



Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

Official Business

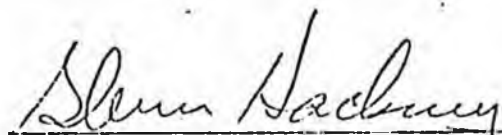
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Senator Glenn Hackney
Chairman

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE


AUDIT DIVISION
POUCH W-ALASKA OFFICE BUILDINGFINANCE DIVISION
POUCH WF-STATE CAPITOL

JUNEAU 99801

March 10, 1979

MEMORANDUM

TO: John Sackett, Chairman
Senate Finance Committee

FROM: Garrey Peska 
Administrative Aide

SUBJECT: SB 80 - University Supplemental

Section I of this bill includes funds for the following distribution:

FY 77 Unallocated deficit	3,711.9
Working Capital	<u>1,117.1</u>
	4,829.0

Attached are memos relating directly to both issues, outlining the basic question of whether a deficit exists that requires an appropriation. As you will recall, the FY 77 unallocated deficit is approximately the same figure as the Balance Sheet entry for Accrued Annual Leave. The two memos from Dave Scott describe that situation, indicating that appropriation relief is not necessary. The only rationale for a supplemental is to establish an asset for the Balance Sheet, so that the financial community will not question the Balance Sheet deficit item when the University floats Revenue Bonds. No evidence has been provided that the current Balance Sheet results in higher interest rates, or is inhibiting the market.

The Working Capital request relates directly to University activities since February 1977. At that time, the University indicated to the Legislature that it faced a potential \$15 million cash-flow shortage. Legislative Audit reviewed the University records at that point, and suggested a \$6 million problem existed, and recommended

John Sackett, Chairman
March 10, 1979
Page 2

actions noted in the attached letter. Please note that, at this point, all discussions related to a cash-flow shortage, not to budgetary deficits. During May 1977, Interim President Ferguson advised the Legislature that cash advances were not required and that no action was necessary.

Due to the impetus of the cash-flow discussions, SB 261 was introduced and passed into statute; placing the University within the Executive Budget Act and the Fiscal Procedures Act, establishing cash loan advances to the University for Research Receivables, and eliminating the Working Capital Fund. The attached memos from George Elgee and B. B. Allen indicate the extent to which the University has utilized this cash advance process to relieve its cash-flow problems. Again, no evidence has been provided to indicate a need to reestablish a University Working Capital Fund, as long as the cash loan advance is available.

The argument that the University cut to the bone to save funds to offset the deficit has two problems. At least \$890.0 of the surplus was due to salary savings identified by the Legislature prior to the appropriation. These funds were allocated to the Governor's Office, to be transmitted to the University only upon evidence that funds were necessary. Those funds were never forwarded to the University. In addition, the University was advised by the Legislature that an offset was not technically possible; and was advised that no savings were necessary, only that no new deficit was to accrue.

Section 2 of this bill is an attempt to replace funds deleted during Free Conference Committee action last session. Dave Scott indicates that the University entered FCC with a \$199.6 base budget from FY 78, and a request for funding of new items. The Grievance item was in the \$199.6 base. The FCC action identified a revised budget, above the FY 78 figure, but line-itemed the budget with new items only. The University has held up grievance activities due to this loss of previous funding.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDINGFINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

February 28, 1978

MEMORANDUM

TO: Senator Hohman, Chairman - Budget & Audit Committee
 Senator Sackett, Chairman - Senate Finance Committee
 Rep. Cowper, Chairman - House Finance Committee

FROM: *DJS* David J. Scott, Fiscal Analyst
 Legislative Finance Division

SUBJECT: Final FY 77 Audit - University of Alaska

Attached is a copy of the Final Audit for FY 77 submitted by Ray Kohler & Co., external auditor for the University. This was presented to the Board of Regents at its February 24th meeting.

Exhibit A, Liabilities and Fund Balances, indicates a \$4,911.9 cumulative deficit for FY 77 year ending. However, the three items below should be considered in evaluating the need for a fiscal appropriation amount to cover this deficit:

- 1) At the Board of Regents' meeting of February 24, action was taken to transfer \$1,052.0 from the Plant Fund to the General Fund, effective June 30, 1977. This action was taken to provide funds to offset the deficit, effectively reducing the Audit deficit to \$3,859.9.
- 2) The Liabilities include a \$3,929.6 valuation for Accrued Annual Leave. This item is not carried by the State in its Financial Reports as a liability. Although it is within proper accounting guidelines to carry such an item on the Balance Sheet, it should not be considered as representing a fiscal need for FY 77. It is merely a representation of funds that will be needed in future years to provide for the earned annual leave not taken in the year(s) actually earned.
- 3) The University creates a paper deficit by charging accrued leave as an expenditure in the current year, even though it has not been taken. It is charged to the Departments as it accrues during the year, and moved internally into a pool.

Senator Hohman
Senator Sackett
Representative Cowper

February 28, 1978
Page 2 of 2 Pages

The balance of the pool at year-end is then identified on the Balance Sheet as an increased liability.

Considering the three items noted above, it appears that the Final Audit does not reflect a need for a fiscal appropriation for a FY 77 deficit. It does pose a question as to the proper method for budgeting current year funds when this accrued leave is finally utilized.

DJS:pw

Attachment

cc: Jerry Wilkerson - Legislative Auditor
Foster Diebold - President, University of Alaska

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W — ALASKA OFFICE BUILDING

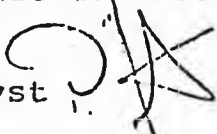
FINANCE DIVISION
POUCH WF — STATE CAPITOL

JUNEAU 99801

March 9, 1979

MEMORANDUM

TO: Rep. Duncan, Chairman
Budget & Audit Committee

FROM: Dave Scott 
Fiscal Analyst

SUBJECT: Special Audit - University of Alaska
Accrued Annual Leave

The University has utilized an Accrued Annual Leave accounting process for several years, charging current year budget appropriations for accrued leave. This practice is in accordance with national audit guidelines for universities, and is a method for billing Federal/Restricted funds for leave. It is not a state practice however, and becomes a state budgetary problem because the federal auditors require that federal grant payrolls be treated in the same manner as all other payrolls of the University. In effect, state payroll budgets are billed for an unbudgeted expense so that Federal/Restricted grants can be billed for reimbursement.

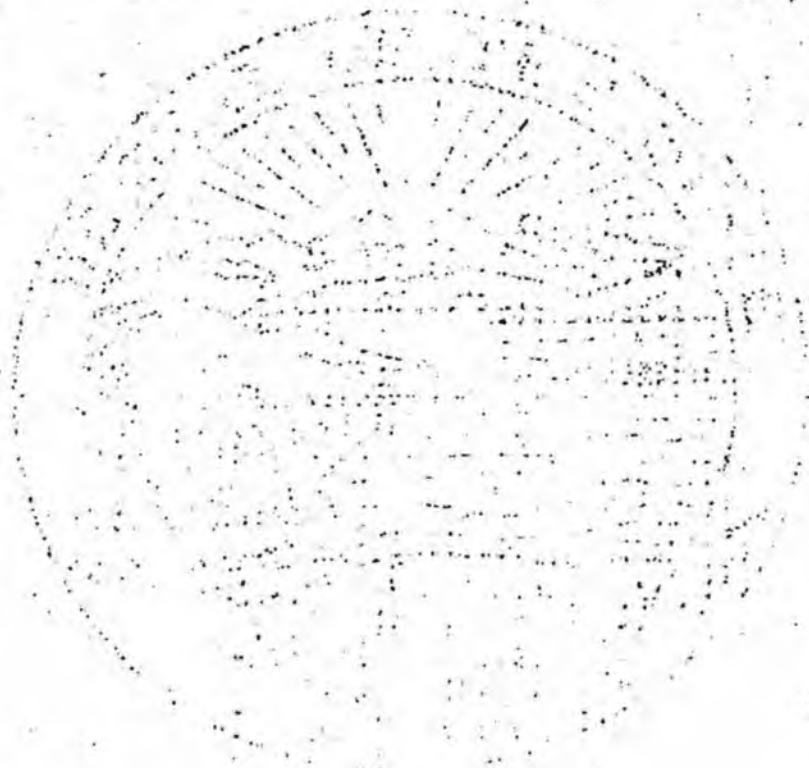
Such billings result in an overstatement of actual current expenses, and either reduce any year-end lapsing of appropriations or contribute to a year-end deficit. The University has further complicated the situation by not establishing a Reserve account on its Balance Sheet, resulting in a one-sided annual leave liability entry without an offsetting asset account.

Without data available, only assumptions can be made concerning the budgetary impact of this unbudgeted expense process. If we assume that the Federal/Restricted payroll approximates 1/3 of the University payroll, then billing the total payroll may mean expending \$2 in state funds to collect \$1 in excess Federal/Restricted receipts. Please

Rep. Duncan, Chairman
March 9, 1979
Page 2

note that accrued annual leave is not a true budget expense of the current year, and may never become an actual expenditure. It only becomes an expense when the employee terminates prior to utilizing his leave. In only rare instances would actual pay-off be 100% of leave accrued in a prior fiscal year.

I suggest that a Legislative audit be conducted pertaining to the effects on the fiscal year appropriation process of the University practice of applying this accrued annual leave factor. This seems an opportune time as I understand the Administration has decided to support this practice, and is considering its implementation for all state agencies.



MEMORANDUM

State of Alaska

TO: David S. Scott
Legislative Finance Division

DATE: October 3, 1978

FILE NO:

TELEPHONE NO:

FROM: George Elgee *GE*
Special Assistant to the
Commissioner
Department of Administration

SUBJECT: University of Alaska

Per your request, the University of Alaska has to date drawdown \$15,000,000 on their appropriations for FY 79. In addition, they have received an advance according to AS 37.10.008 of \$1,000,000 (see attached report to Legislative Budget and Audit Committee).

The following is a list of the drawdown requests:

7/10/78	\$ 5,000,000
8/10/78	6,000,000
9/12/78	4,000,000
	<u>\$15,000,000</u>
ADVANCE	
9/12/78	<u>\$ 1,000,000</u>

GE/mjc
G-21

Gray

September 22, 1978

Honorable Mike Colletta
Chairman
Legislative Budget and Audit Committee
Box 3188
Anchorage, Alaska 99501

RE: Advance under AS 37.10.088(c) to the
University of Alaska

Dear Senator Colletta:

This is a report to the Legislative Budget and Audit
Committee in compliance with AS 37.10.088(c) Department of
Administration Authorized To Make Advances To The
University.

The Quarterly Report for the period ending June 30,
1978 was inadvertently overlooked. This report covers that
period and all active to date.

An advance of \$3,388,880 was made to the University in
May 1978. This represented the total of advances to the
University under AS 37.10.088 for FY 1978.

These funds have now been paid back and were received
in two separate payments, \$2,000,000 in July and \$1,388,280
in August.

The advances to date under AS 37.10.088 for the first
quarter of FY 1979 are \$1,000,000, disbursed on September 7,
1978. This advance is due and payable 120 days after the
close of the fiscal year in accordance with AS 37.10.088.

Sincerely,

B. B. Allen
Commissioner

BBA/GE/mjc
I 2

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF — STATE CAPITOL

JUNEAU 99201

March 2, 1977

Legislative Budget and Audit Committee

Dear Committee Members:

I. INTRODUCTION

At the request of the Budget and Audit Committee, four managers from the audit staff spent the period from February 15 through February 25, 1977, reviewing financial activities at the University of Alaska, Central Administration.

The Legislative staff auditors were accompanied by one auditor from the Department of Administration. Commissioner Allen and I spent the week of February 21 at the University reviewing work done by the auditors and observing the operation of University Administration.

II. PURPOSE OF REVIEW

The purpose of the auditors' review was to determine:

1. The reasonableness of the \$15 million estimated June 30, 1977 accounts receivable balance stated in Dr. Hiatt's letter suggesting solutions to the University's cash problems.
2. The University's cash balance as of January 31, 1977.
3. Estimated additional cash the University will need in order to meet cash requirements during the remainder of fiscal year 1977.

III. PROCEDURES UTILIZED

It is common knowledge that current accurate accounting records are non-existent at the University. For this reason, we found it necessary to rely upon:

1. Our own reconstruction of accounting summaries based upon financial information made available to us.
2. Verbal information provided by University personnel and their external auditors.

3. Analysis of past receipt and expenditure trends and projecting those trends to the current year.

IV. ASSUMPTIONS DEFINED

As the previous mentioned estimates are based upon future projections and events, certain assumptions have been made that include:

1. No essential changes will be made in either management philosophy or financial operations for the remaining fiscal 1977 year.
2. The time table for computer generated reports will be met.
3. The Northern Region will bill all contracts within ten days of status reports and request advance draws against all letters of credit grants on a timely basis.
4. That the current revised estimated contract billings by the Northern Region Business Office are reasonable.
5. That the University will not exceed their budgeted expenditures for FY 1977.

V. CONCLUSIONS

In our opinion, a reasonable estimate of the amount of grant and contract billings outstanding at June 30, 1977, is \$6 million.

The \$15 million of fiscal year 1977 accounts receivable estimated in Dr. Hiatt's letter, was based on the Northern Region budgeted grants and contract bills. Revised figures provided to the Division of Legislative Audit by the Northern Region indicate a potential over expenditure of \$8 million due to a difference between budgeted Federal billings and what the University now projects to be actual for FY 1977. University officials do not feel a matching reduction in expenditures will occur prior to June 30, 1977.

In our opinion, a reasonable estimate of the University's cash balance as of January 31, 1977, is \$4,600,000.

In our opinion, a reasonable estimate of the additional cash needs of the University for the remainder of fiscal year 1977 is \$8 million.

RECOMMENDATIONS

1. Loan the University \$8 million to finish FY 1977 with the loan to be repaid during the first quarter of FY 1978.

2. Before draw downs of the \$8 million, require that the Department of Administration be satisfied with:
 - A. Current cash flow projections.
 - B. Status report on progress in development of accounting system.
 - C. Aged schedule of accounts receivable.
 - D. Detail of Federal letter of credit draw down since the preceding report and projected draw downs expected by June 30, 1977.


Copies of the above information should be submitted to the Division of Legislative Audit for purposes of keeping the Committee advised of current progress.

3. Make necessary changes in Titles 14 and 37 to specifically define the University as a State agency for purposes of following accounting policies and procedures.

The University should be required to follow all standard State of Alaska reporting procedures such as:

- A. They should lapse unspent appropriations at the end of each fiscal year with the usual exceptions for continuing programs authorized by Budget and Management.
- B. They should not be allowed to over expend appropriated categories as has been done in the past. Over expenditures must be prohibited for all State agencies including the University.
- C. All Federal and program receipts should be transferred to the State Treasury. They should not be allowed to hold and invest any of these funds. All draw downs, including capital improvement funds, should come from the Department of Administration.

Finally, in our opinion, any contract for financial management and accounting assistance between the University and the Department of Administration should be non-cancellable for at least two years.


Garr M. Peska, CPA
Legislative Auditor
Division of Legislative Audit

Where did \$4.9 million go?

It seems even when legislative committees try to do things better they manage to come out worse.

That's apparently the story on SB 80, the bill in which the University of Alaska is asking the Legislature to officially recognize its renewed financial health. As amended by the Senate Finance Committee, the bill gives the UA one of the prime symptoms it had when it was getting financially unhealthy.

We all know how previous UA administrations ran the institution almost \$5 million in the hole, and how the present administration clamped down on UA spending last year to save \$4.9 million in an impressive demonstration of restoring a tight fiscal fist. SB 80, as introduced by the governor, allowed the UA to get credit for the \$4.9 million it saved rather than have the unexpended funds lapse and the deficits from earlier years remain on the UA's books.

The bill also applied part of the savings to a "working capital" fund which would keep the university from going into debt to pay bills while it waited for federal money due it under a myriad of projects financed by incomes outside the state budget. In the past the UA had to hedge on its books a bit to meet its payroll while federal officials examined their bills and processed their accounts for payment. This led to the loose financial control which the current administration, with a lot of sacrifice from everyone in the UA system, has been repairing.

Evidently the Senate Finance Committee thought it was rewriting the bill so the first consideration was taken care of but the second was not. That wouldn't have been a good move even if the committee had been right, but the UA says the new language in the bill now doesn't credit the \$4.9 million to their account either.

The bill is before the House Finance Committee Friday in the last chance for the error to be remedied. The legislators will probably find it as hard to follow as we do when the UA financiers and the Legislature's financial experts argue over what the Senate committee amendments do or don't do, but if they're smart they'll see the logical solution.

That would be to pass the original version. At least everyone agrees on what it does, and it goes beyond recognizing the UA's savings and actually applies a solution to part of the university's problem.



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James O. Smith
Signature of Camera Operator

3/20/90
Date

COMMITTEE REPORT
SENATE

FURTHER: None

3/8/79

Date: March 15, 1979

Mr. President:

The Committee on FINANCE has had SB 80
supplemental appropriations to University of Alaska, working capital fund
and grievance procedures

under consideration and (a majority of the committee) (the committee)
reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 80 same title
 new title
- and recommends individual recommendations
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Holmes

Bill King

Gene H. Hansen

Carl Johnson

James ...

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John A. Sackett
CHAIRMAN
Do Pass

Original sponsor: Rules/Governor

Funding Information

General Fund -0-
Other Funds -0-
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IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 80

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making transfers between general fund appropriations affecting the University of Alaska for the 1977 and 1978 fiscal years; and providing for an effective date."

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

* Section 1. Section 8, ch. 153, SLA 1977, at page 3 is amended to read:

Funding Source	Operating Budget	Total Budget
General Fund	<u>727,560,200</u> [731,272,100]	<u>768,537,100</u> [772,249,800]

* Sec. 2. Section 12, ch. 153, SLA 1977, page 63, lines 6 - 12, is amended to read:

University of Alaska

Federal Receipts	33,888,800
General Fund Match	2,050,600
General Fund	<u>54,552,900</u> [58,264,800]
Program Receipts	9,083,300
Student Fees, University of Alaska	5,596,600
Total Funding	<u>105,172,200</u> [108,884,100]

* Sec. 3. Section 18(a), ch. 279, SLA 1976, page 6, is amended by adding a new line following the name "University of Alaska" to read:

	Appropriation	General
	Item	Fund
UNIVERSITY OF ALASKA		
University of Alaska		
<u>Unallocated Deficit</u>	<u>3,711,900</u>	<u>3,711,900</u>

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* Sec. 4. Section 18(a), ch. 279, SLA 1976, page 11, lines 1 - 11, is amended to read:

Category Fund Sources

Federal Receipts	499,300
General Fund	<u>55,811,900</u> [52,100,000]
Program Receipts	9,357,000
Student Fees - U of A	4,506,000
Overhead - U of A	2,919,700
Restricted Receipts - U of A	24,326,500
Total Funding-University of Alaska	<u>97,420,400</u> [93,708,500]

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Original sponsor: Rules/Governor

Offered: 3/15/79

Referred: Rules

Funding Information

General Fund -0-

Other Funds -0-

-0-

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 80

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making transfers between general fund appro-

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priations affecting the University of Alaska for the

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1977 and 1978 fiscal years; and providing for an

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effective date."

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

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* Section 1. Section 8, ch. 153, SLA 1977, at page 3 is amended to read:

12

Funding Source	Operating Budget	Total Budget
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General Fund	<u>727,560,200</u> [731,272,100]	<u>768,537,100</u> [772,249,800]
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* Sec. 2. Section 12, ch. 153, SLA 1977, page 63, lines 6 - 12, is

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amended to read:

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University of Alaska

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Federal Receipts	33,888,800
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General Fund Match	2,050,600
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19

General Fund	<u>54,552,900</u> [58,264,800]
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20

Program Receipts	9,083,300
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Student Fees, University of Alaska	5,596,600
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Total Funding	<u>105,172,200</u> [108,884,100]
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* Sec. 3. Section 18(a), ch. 279, SLA 1976, page 6, is amended by adding

24

a new line following the name "University of Alaska" to read:

25

Appropriation	General
---------------	---------

26

Item	Fund
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27

UNIVERSITY OF ALASKA

28

University of Alaska

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<u>Unallocated Deficit</u>	<u>3,711,900</u>	<u>3,711,900</u>
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Funding Information:

General Fund: \$4,867,500
Other Funds: -0-
\$4,867,500

Introduced: 1/29/79
Referred: Health, Education,
& Social Services and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 80

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making supplemental appropriations to the
7 University of Alaska, working capital fund and grievance
8 procedures; and providing for an effective
9 date."

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

11 * Section 1. The sum of \$4,829,000 or the amount lapsed by the univer-
12 sity at the close of FY 1978, whichever is less, is appropriated from the
13 general fund to the University of Alaska for the purpose of removing the
14 deficit stated in the university's annual report and establishing a working
15 capital fund.

16 * Sec. 2. The sum of \$38,500 is appropriated from the general fund to
17 the University of Alaska for the purpose of providing funds for grievance
18 procedures with the Alaska Community Colleges' Federation of Teachers.

19 * Sec. 3. The unexpended and unobligated portion of the appropriations
20 made in this Act lapses June 30, 1979.

21 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

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Funding Information:
General Fund: \$4,867,500
Other Funds: -0-
\$4,867,500

Introduced: 1/29/79
Referred: Health, Education
& Social Services and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 80

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making supplemental appropriations to the
7 University of Alaska, working capital fund and grievance
8 procedures; and providing for an effective
9 date."

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

11 * Section 1. The sum of \$4,829,000 or the amount lapsed by the univer-
12 sity at the close of FY 1978, whichever is less, is appropriated from the
13 general fund to the University of Alaska for the purpose of removing the
14 deficit stated in the university's annual report and establishing a working
15 capital fund.

16 * Sec. 2. The sum of \$38,500 is appropriated from the general fund to
17 the University of Alaska for the purpose of providing funds for grievance
18 procedures with the Alaska Community Colleges' Federation of Teachers.

19 * Sec. 3. The unexpended and unobligated portion of the appropriations
20 made in this Act lapses June 30, 1979.

21 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

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STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE


AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDINGFINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

March 10, 1979

MEMORANDUM

TO: John Sackett, Chairman
Senate Finance Committee

FROM: Garrey Peska 
Administrative Aide

SUBJECT: SB 80 - University Supplemental

Section I of this bill includes funds for the following distribution:

FY 77 Unallocated deficit	3,711.9
Working Capital	<u>1,117.1</u>
	4,829.0

Attached are memos relating directly to both issues, outlining the basic question of whether a deficit exists that requires an appropriation. As you will recall, the FY 77 unallocated deficit is approximately the same figure as the Balance Sheet entry for Accrued Annual Leave. The two memos from Dave Scott describe that situation, indicating that appropriation relief is not necessary. The only rationale for a supplemental is to establish an asset for the Balance Sheet, so that the financial community will not question the Balance Sheet deficit item when the University floats Revenue Bonds. No evidence has been provided that the current Balance Sheet results in higher interest rates, or is inhibiting the market.

The Working Capital request relates directly to University activities since February 1977. At that time, the University indicated to the Legislature that it faced a potential \$15 million cash-flow shortage. Legislative Audit reviewed the University records at that point, and suggested a \$6 million problem existed, and recommended

John Sackett, Chairman
March 10, 1979
Page 2

actions noted in the attached letter. Please note that, at this point, all discussions related to a cash-flow shortage, not to budgetary deficits. During May 1977, Interim President Ferguson advised the Legislature that cash advances were not required and that no action was necessary.

Due to the impetus of the cash-flow discussions, SB 261 was introduced and passed into statute; placing the University within the Executive Budget Act and the Fiscal Procedures Act, establishing cash loan advances to the University for Research Receivables, and eliminating the Working Capital Fund. The attached memos from George Elgee and B. B. Allen indicate the extent to which the University has utilized this cash advance process to relieve its cash-flow problems. Again, no evidence has been provided to indicate a need to reestablish a University Working Capital Fund, as long as the cash loan advance is available.

The argument that the University cut to the bone to save funds to offset the deficit has two problems. At least \$890.0 of the surplus was due to salary savings identified by the Legislature prior to the appropriation. These funds were allocated to the Governor's Office, to be transmitted to the University only upon evidence that funds were necessary. Those funds were never forwarded to the University. In addition, the University was advised by the Legislature that an offset was not technically possible; and was advised that no savings were necessary, only that no new deficit was to accrue.

Section 2 of this bill is an attempt to replace funds deleted during Free Conference Committee action last session. Dave Scott indicates that the University entered FCC with a \$199.6 base budget from FY 78, and a request for funding of new items. The Grievance item was in the \$199.6 base. The FCC action identified a revised budget, above the FY 78 figure, but line-itemed the budget with new items only. The University has held up grievance activities due to this loss of previous funding.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W--ALASKA OFFICE BUILDINGFINANCE DIVISION
POUCH WF--STATE CAPITOL

JUNEAU 99801

February 28, 1978

MEMORANDUM

TO: Senator Hohman, Chairman - Budget & Audit Committee
 Senator Sackett, Chairman - Senate Finance Committee
 Rep. Cowper, Chairman - House Finance Committee

FROM: *DA* David J. Scott, Fiscal Analyst
 Legislative Finance Division

SUBJECT: Final FY 77 Audit - University of Alaska

Attached is a copy of the Final Audit for FY 77 submitted by Ray Kohler & Co., external auditor for the University. This was presented to the Board of Regents at its February 24th meeting.

Exhibit A, Liabilities and Fund Balances, indicates a \$4,911.9 cumulative deficit for FY 77 year ending. However, the three items below should be considered in evaluating the need for a fiscal appropriation amount to cover this deficit:

- 1) At the Board of Regents' meeting of February 24, action was taken to transfer \$1,052.0 from the Plant Fund to the General Fund, effective June 30, 1977. This action was taken to provide funds to offset the deficit, effectively reducing the Audit deficit to \$3,859.9.
- 2) The Liabilities include a \$3,929.6 valuation for Accrued Annual Leave. This item is not carried by the State in its Financial Reports as a liability. Although it is within proper accounting guidelines to carry such an item on the Balance Sheet, it should not be considered as representing a fiscal need for FY 77. It is merely a representation of funds that will be needed in future years to provide for the earned annual leave not taken in the year(s) actually earned.
- 3) The University creates a paper deficit by charging accrued leave as an expenditure in the current year, even though it has not been taken. It is charged to the Departments as it accrues during the year, and moved internally into a pool.

Senator Hohman
Senator Sackett
Representative Cowper

February 28, 1978
Page 2 of 2 Pages

The balance of the pool at year-end is then identified on the Balance Sheet as an increased liability.

Considering the three items noted above, it appears that the Final Audit does not reflect a need for a fiscal appropriation for a FY 77 deficit. It does pose a question as to the proper method for budgeting current year funds when this accrued leave is finally utilized.

DJS:pw

Attachment

cc: Jerry Wilkerson - Legislative Auditor
Foster Diebold - President, University of Alaska

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W — ALASKA OFFICE BUILDING

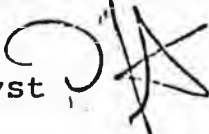
FINANCE DIVISION
POUCH WF — STATE CAPITOL

JUNEAU 99801

March 9, 1979

MEMORANDUM

TO: Rep. Duncan, Chairman
Budget & Audit Committee

FROM: Dave Scott 
Fiscal Analyst

SUBJECT: Special Audit - University of Alaska
Accrued Annual Leave

The University has utilized an Accrued Annual Leave accounting process for several years, charging current year budget appropriations for accrued leave. This practice is in accordance with national audit guidelines for universities, and is a method for billing Federal/Restricted funds for leave. It is not a state practice however, and becomes a state budgetary problem because the federal auditors require that federal grant payrolls be treated in the same manner as all other payrolls of the University. In effect, state payroll budgets are billed for an unbudgeted expense so that Federal/Restricted grants can be billed for reimbursement.

Such billings result in an overstatement of actual current expenses, and either reduce any year-end lapsing of appropriations or contribute to a year-end deficit. The University has further complicated the situation by not establishing a Reserve account on its Balance Sheet, resulting in a one-sided annual leave liability entry without an offsetting asset account.

Without data available, only assumptions can be made concerning the budgetary impact of this unbudgeted expense process. If we assume that the Federal/Restricted payroll approximates 1/3 of the University payroll, then billing the total payroll may mean expending \$2 in state funds to collect \$1 in excess Federal/Restricted receipts. Please

Rep. Duncan, Chairman
March 9, 1979
Page 2

note that accrued annual leave is not a true budget expense of the current year, and may never become an actual expenditure. It only becomes an expense when the employee terminates prior to utilizing his leave. In only rare instances would actual pay-off be 100% of leave accrued in a prior fiscal year.

I suggest that a Legislative audit be conducted pertaining to the effects on the fiscal year appropriation process of the University practice of applying this accrued annual leave factor. This seems an opportune time as I understand the Administration has decided to support this practice, and is considering its implementation for all state agencies.

MEMORANDUM

State of Alaska

TO: David S. Scott
Legislative Finance Division

DATE: October 3, 1978

FILE NO:

TELEPHONE NO:

FROM: George Elgee *GE*
Special Assistant to the
Commissioner
Department of Administration

SUBJECT: University of Alaska

Per your request, the University of Alaska has to date drawdown \$15,000,000 on their appropriations for FY 79. In addition, they have received an advance according to AS 37.10.088 of \$1,000,000 (see attached report to Legislative Budget and Audit Committee).

The following is a list of the drawdown requests:

7/10/78	\$ 5,000,000
8/10/78	6,000,000
9/12/78	4,000,000
	<u>\$15,000,000</u>

ADVANCE	
9/12/78	<u>\$ 1,000,000</u>

GE/mjc
G-21

George

September 22, 1978

Honorable Mike Colletta
Chairman
Legislative Budget and Audit Committee
Box 3188
Anchorage, Alaska 99501

RE: Advance under AS 37.10.088(c) to the
University of Alaska

Dear Senator Colletta:

This is a report to the Legislative Budget and Audit Committee in compliance with AS 37.10.088(c) Department of Administration Authorized To Make Advances To The University.

The Quarterly Report for the period ending June 30, 1978 was inadvertently overlooked. This report covers that period and all active to date.

An advance of \$3,388,880 was made to the University in May 1978. This represented the total of advances to the University under AS 37.10.088 for FY 1978.

These funds have now been paid back and were received in two separate payments, \$2,000,000 in July and \$1,388,880 in August.

The advances to date under AS 37.10.088 for the first quarter of FY 1979 are \$1,000,000, disbursed on September 7, 1978. This advance is due and payable 120 days after the close of the fiscal year in accordance with AS 37.10.088.

Sincerely,

B. B. Allen
Commissioner

BBA/GE/mjc
I 2

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU 99801

AUDIT DIVISION
POUCH W — ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF — STATE CAPITOL

March 2, 1977

Legislative Budget and Audit Committee

Dear Committee Members:

I. INTRODUCTION

At the request of the Budget and Audit Committee, four managers from the audit staff spent the period from February 15 through February 25, 1977, reviewing financial activities at the University of Alaska, Central Administration.

The Legislative staff auditors were accompanied by one auditor from the Department of Administration. Commissioner Allen and I spent the week of February 21 at the University reviewing work done by the auditors and observing the operation of University Administration.

II. PURPOSE OF REVIEW

The purpose of the auditors' review was to determine:

1. The reasonableness of the \$15 million estimated June 30, 1977 accounts receivable balance stated in Dr. Hiatt's letter suggesting solutions to the University's cash problems.
2. The University's cash balance as of January 31, 1977.
3. Estimated additional cash the University will need in order to meet cash requirements during the remainder of fiscal year 1977.

III. PROCEDURES UTILIZED

It is common knowledge that current accurate accounting records are non-existent at the University. For this reason, we found it necessary to rely upon:

1. Our own reconstruction of accounting summaries based upon financial information made available to us.
2. Verbal information provided by University personnel and their external auditors.

3. Analysis of past receipt and expenditure trends and projecting those trends to the current year.

IV. ASSUMPTIONS DEFINED

As the previous mentioned estimates are based upon future projections and events, certain assumptions have been made that include:

1. No essential changes will be made in either management philosophy or financial operations for the remaining fiscal 1977 year.
2. The time table for computer generated reports will be met.
3. The Northern Region will bill all contracts within ten days of status reports and request advance draws against all letters of credit grants on a timely basis.
4. That the current revised estimated contract billings by the Northern Region Business Office are reasonable.
5. That the University will not exceed their budgeted expenditures for FY 1977.

V. CONCLUSIONS

In our opinion, a reasonable estimate of the amount of grant and contract billings outstanding at June 30, 1977, is \$6 million.

The \$15 million of fiscal year 1977 accounts receivable estimated in Dr. Hiatt's letter, was based on the Northern Region budgeted grants and contract bills. Revised figures provided to the Division of Legislative Audit by the Northern Region indicate a potential over expenditure of \$8 million due to a difference between budgeted Federal billings and what the University now projects to be actual for FY 1977. University officials do not feel a matching reduction in expenditures will occur prior to June 30, 1977.

In our opinion, a reasonable estimate of the University's cash balance as of January 31, 1977, is \$4,600,000.

In our opinion, a reasonable estimate of the additional cash needs of the University for the remainder of fiscal year 1977 is \$8 million.

RECOMMENDATIONS

1. Loan the University \$8 million to finish FY 1977 with the loan to be repaid during the first quarter of FY 1978.

2. Before draw downs of the \$8 million, require that the Department of Administration be satisfied with:
 - A. Current cash flow projections.
 - B. Status report on progress in development of accounting system.
 - C. Aged schedule of accounts receivable.
 - D. Detail of Federal letter of credit draw down since the preceding report and projected draw downs expected by June 30, 1977.


Copies of the above information should be submitted to the Division of Legislative Audit for purposes of keeping the Committee advised of current progress.

3. Make necessary changes in Titles 14 and 37 to specifically define the University as a State agency for purposes of following accounting policies and procedures.

The University should be required to follow all standard State of Alaska reporting procedures such as:

- A. They should lapse unspent appropriations at the end of each fiscal year with the usual exceptions for continuing programs authorized by Budget and Management.
- B. They should not be allowed to over expend appropriated categories as has been done in the past. Over expenditures must be prohibited for all State agencies including the University.
- C. All Federal and program receipts should be transferred to the State Treasury. They should not be allowed to hold and invest any of these funds. All draw downs, including capital improvement funds, should come from the Department of Administration.

Finally, in our opinion, any contract for financial management and accounting assistance between the University and the Department of Administration should be non-cancellable for at least two years.


Garrey M. Peska, CPA
Legislative Auditor
Division of Legislative Audit

STATE
of ALASKA

MEMORANDUM

SB 80

TO: [Art Peterson
Assistant Attorney General
Department of Law

FROM: *RL*
Ron Lind, Director
Division of Budget & Management
Office of the Governor

DATE: January 11, 1979

FILE NO:

TELEPHONE NO.

SUBJECT: Supplemental Appropriation

Please prepare a bill for the Governor's introduction making a supplemental appropriation in the amount of \$4,829,000 or the lapse as a result of 1978 University operations, whichever is less, to the University of Alaska for the purpose of removing the deficit stated in their annual report (\$3,734,000) and establishing a working capital fund. The working capital fund may be used only for providing a cash working reserve and not to fund programs.

This \$4,829,000 should be appropriated from the general fund.

This act should take effect immediately and include a lapse date of June 30, 1979.

list sybudget/sybud-2,r

DECEMBER 18, 1978

MR. RONALD B. LIND, DIRECTOR
DIVISION OF BUDGET AND MANAGEMENT
OFFICE OF THE GOVERNOR
POUCH AM
JUNEAU, ALASKA 99811

DEAR RON:

THIS LETTER DISCUSSES THE MATTER OF THE UNIVERSITY'S SUPPLEMENTAL APPROPRIATION REQUESTS FOR THE CURRENT FISCAL YEAR. ASHOK DHINGRA TALKED WITH FRANK SPARGO REGARDING THE INFORMATION WHICH NOW IS NEEDED BY YOUR OFFICE. SUCH INFORMATION IS PRESENTED BELOW.

THE BOARD OF REGENTS, DURING ITS MEETING ON DECEMBER 15, 1978, AUTHORIZED THE UNIVERSITY ADMINISTRATION TO REQUEST FOUR SUPPLEMENTAL APPROPRIATIONS FOR FY 1979 AS FOLLOWS:

1. \$4,872,598 APPROPRIATIONS SCHEDULED TO LAPSE. THIS MONEY WAS APPROPRIATED BY THE LEGISLATURE FOR THE UNIVERSITY FOR LAST FISCAL YEAR BUT WAS NOT SPENT BY THE UNIVERSITY. TO RETURN THIS MONEY TO THE STATE WOULD REQUIRE THAT THE UNIVERSITY SIMULTANEOUSLY BORROW ADDITIONAL FUNDS FROM THE STATE. WHEREAS, IF THE STATE WILL PERMIT THE UNIVERSITY TO KEEP THIS FUNDING WHICH THE UNIVERSITY SAVED LAST FISCAL YEAR, THE UNIVERSITY WILL BE ABLE TO ELIMINATE ITS UNFUNDED DEFICIT (WHICH OTHERWISE WILL BE \$3,711,899) AND ITS INDEBTEDNESS TO THE STATE (WHICH NOW TOTALS \$1,000,000) AND ALSO IMPROVE ITS WORKING CAPITAL POSITION. A PROPOSAL FOR LEGISLATION FOR THIS SUPPLEMENTAL APPROPRIATION REQUEST IS ATTACHED.

2. \$200,000 FOR UAF LIBRARY AND \$38,400 FOR UAJ LIBRARY. THE BOARD OF REGENTS REQUESTED AND RECEIVED THE FOLLOWING FUNDING FOR UNIVERSITY LIBRARIES FOR FY 1979: FOR UAF -- REQUESTED \$300,000, RECEIVED \$100,000; FOR UAA REQUESTED \$150,000, AND RECEIVED \$500,000; AND FOR UAJ REQUESTED \$38,400 AND RECEIVED NOTHING.

3. \$38,500 TO FUND GRIEVANCE PROCEDURE. THE UA BUDGET REQUEST FOR FY 1979 INCLUDED \$199,600 FOR FUNDING THE COMMUNITY COLLEGE CONTRACT, WHICH MONEY WAS NOT PROVIDED. INCLUDED WITHIN THAT AMOUNT WAS \$38,500 TO PAY FOR THE GRIEVANCE PROCEDURE. THE REASONS FOR THE LEGISLATURE'S FAILURE TO FUND THAT PART OF THE UNIVERSITY'S REQUEST IS NOT APPARENT. THIS MAY HAVE BEEN THE RESULT OF AN OVERSIGHT -- THE LEGISLATURE MAY NOT HAVE INTENDED TO WITHHOLD APPROVAL OF THAT ITEM. IN ANY EVENT, WITHOUT THIS FUNDING, THE UNIVERSITY IS UNABLE TO MEET ITS RESPONSIBILITIES UNDER THE PUBLIC EMPLOYMENT RELATIONS ACT.

4. \$55,429 FOR OPERATING COSTS FOR THE TANANA VALLEY COMMUNITY COLLEGE. THE UNIVERSITY'S FY 1978 GO BOND PACKAGE INCLUDES \$2.3 MILLION FOR THE PURCHASE OF A BUILDING FOR TVCC. IT IS ANTICIPATED THAT THE UNIVERSITY WILL PURCHASE THIS BUILDING BY FEBRUARY OF 1979 AND THAT OPERATING FUNDS FOR THE FACILITY FOR THE BALANCE OF THIS FISCAL YEAR WILL BE AS SHOWN BELOW. THIS FUNDING WILL PAY FOR SUCH THINGS AS UTILITIES AND FOR ONE CUSTODIAL MAINTENANCE WORKER; THAT PERSON WILL BE NEEDED THROUGHOUT THE BALANCE OF THIS YEAR IN ORDER TO PROVIDE SECURITY FOR THE FACILITY AND PERFORM CUSTODIAL WORK. TANANA VALLEY COMMUNITY COLLEGE IS EXPECTED TO BE READY TO MAKE USE OF THIS FACILITY ABOUT MAY.

2001 Request approved

PERSONAL SERVICES:	\$7,516
CONTRACTUAL	33,913
COMMODITIES:	8,000
CAPITAL ACQUISITIONS:	6,000

TOTAL:	\$55,429

PLEASE LET ME KNOW IF ADDITIONAL INFORMATION IS NEEDED.

SINCERELY,

SHERMAN F. CARTER
VICE PRESIDENT FOR FINANCE

SFC/DR

CC: PRESIDENT FOSTER DIEBOLD

COMMITTEE REPORT
SENATE

1/29/79

FURTHER: Finance

Date: 3/7/79

Mr. President:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SB 80

supplemental appropriations to University of Alaska, working capital fund and grievance procedures

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation *raised questions with Letter of Intent*
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Arless Sturgulowski
Robert Schmitt

MEMBERS HAVING
OTHER RECOMMENDATIONS:

1 Ferguson - No Rec

Blaine Hadeney
 CHAIRMAN
 NO REC



Official Business

Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

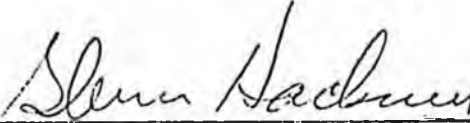
Pouch V
State Capitol
Juneau, Alaska 99811

Glenn Hackney, Chairman
Frank Ferguson, Vice Chairman
Mike Colletta
Bettye Fahrenkamp
Arliss Sturgulewski

March 7, 1979

SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE LETTER OF INTENT FOR SB 80

The Senate Health, Education and Social Services Committee feels the University of Alaska has made good faith efforts to comply with legislative requests to get its financial affairs in order. It is the intent of the Health, Education and Social Services Committee in passing out SB 80 that the University should be allowed a fund for flexibility of operations. However, the Committee feels that the Finance Committee should look carefully at the appropriateness of the figure called for in SB 80.



Senator Glenn Hackney
Chairman

1050

January 27, 1979

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

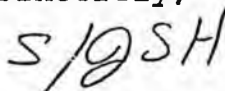
Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making supplemental appropriations to the University of Alaska.

As a result of improved cost controls, the university was able to avoid spending \$4,829,000 of general fund money in FY 78. While these funds would normally lapse to the state, the university is in a unique position, as a non-profit corporation, of having to maintain its own working capital funds and of having its own accounting records. There is currently a deficit shown on the records from previous years, and the working capital funds are too small to support daily operations. The appropriation in sec. 1 is requested for Fy 79 for the purpose of removing the deficit and increasing the university's working capital fund.

The 1978 legislature inadvertently omitted funding for FY 79 to pay the costs of arbitration of grievances with the Alaska Community Colleges' Federation of Teachers. The appropriation in sec. 2 of this bill is solely for the purpose of paying for arbitration costs.

Sincerely,



Jay S. Hammond
Governor

STATE
of ALASKA

MEMORANDUM

TO: Art Peterson
Assistant Attorney General
Department of Law

DATE: January 11, 1979

FILE NO:

TELEPHONE NO:

FROM: *RL*
Ron Lind, Director
Division of Budget & Management
Office of the Governor

SUBJECT: Supplemental Appropriation

SB 80

Please prepare a bill for the Governor's introduction making a supplemental appropriation in the amount of \$4,829,000 or the lapse as a result of 1978 University operations, whichever is less, to the University of Alaska for the purpose of removing the deficit stated in their annual report (\$3,734,000) and establishing a working capital fund. The working capital fund may be used only for providing a cash working reserve and not to fund programs.

This \$4,829,000 should be appropriated from the general fund.

This act should take effect immediately and include a lapse date of June 30, 1979.