

LEG. FINANCE - BILLS 1983 - 1984 2134

CSSB 503 cont. - SB 508 2134

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X

1200 SIXTH AVENUE  
SEATTLE, WASHINGTON 98101



REPLY TO  
ATTN OF: M/S 533

MAY 14 1984

Honorable Bettye Fahrenkamp  
Chairman  
Senate Committee on Resources  
Pouch V  
Juneau, Alaska 99811

Dear Ms. Fahrenkamp:

In your letter of April 30, 1984, you requested that the Environmental Protection Agency review Alaska's proposed hazardous waste legislation to determine whether it meets Federal requirements for authorization of State programs. The following discussion is offered relative to the May 7, 1984 draft of Senate Bill 503.

It is our belief that the bill as proposed will provide adequate statutory authority for Alaska to develop and implement a program which can receive authorization under the Resource Conservation and Recovery Act. We have had numerous discussions with the Alaska Department of Environmental Conservation (ADEC) and the Department of Law regarding the requirements for statutory authority. Most recently, we have provided several comments to ADEC (copies enclosed) on aspects of Senate Bill 503 which might benefit from clarification. However, none of the issues we raised would appear to necessitate further amendments to the bill in order to establish adequate statutory authority.

We wish to note that a formal opinion on Alaska's statutory authority can not be rendered until a complete application for final authorization has been submitted by the State. In particular, we will look to the Attorney General's statement, a required component of the application, to demonstrate the adequacy of statutory and regulatory authority. However, we do not envision encountering any problems with Alaska's statutory authority if Senate Bill 503 is adopted.

Sincerely,

*Alexandra B. Smith*

Alexandra B. Smith, Director  
Air & Waste Management Division

Enclosures

A FIN

COMM Bill FILE

SB 503

Offered: 5/16/84  
Referred: Rules

Original sponsor: Resources Committee

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 CS FOR SENATE BILL NO. 503 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to hazardous waste and certain  
7 public contracts concerning hazardous waste; changing  
8 penalties for environmental pollution violations; and  
9 providing for an effective date."

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

11 \* Section 1. AS 46.03.299 is repealed and reenacted to read:

12 Sec. 46.03.299. REGULATION OF HAZARDOUS WASTE. (a) The depart-  
13 ment shall develop regulations for the identification and management  
14 of hazardous waste as defined by the Environmental Protection Agency  
15 and hazardous waste that exhibits the characteristic of toxicity,  
16 persistence, or carcinogenicity. The department shall adopt these  
17 regulations not later than July 1, 1986, in accordance with the Admin-  
18 istrative Procedure Act (AS 44.62). These regulations shall take  
19 effect July 1, 1987.

20 (b) Regulations adopted under (a) of this section shall exempt  
21 from their coverage mining waste and waste associated with the explo-  
22 ration, development, or production of crude oil, natural gas, or  
23 geothermal energy until studies required under 42 U.S.C. 6982(f) and  
24 (u.) are completed. The department, after considering the findings in  
25 the reports of these studies, may terminate or amend the exemptions.

26 (c) The department shall take all actions necessary to receive  
27 authorization from the administrator of the Environmental Protection  
28 Agency to administer and enforce a hazardous waste program in accor-  
29 dance with 42 U.S.C. 6901 - 6987 (Resource Conservation and Recovery

1 Act of 1976).

2 (d) Regulations adopted under (a) of this section shall cover  
3 (1) hazardous waste, not otherwise exempted by law, that is generated  
4 in any month by a single generator in an amount of 220 pounds or more,  
5 and (2) acute hazardous wastes identified in 40 C.F.R. 261.33(e), not  
6 otherwise exempted by law, that are generated in any month by a single  
7 generator in an amount of 2.2 pounds or more. The department shall  
8 extend the regulations to manage smaller quantities of hazardous waste  
9 if the quantities specified in this subsection exceed the quantities  
10 regulated under the authority of 42 U.S.C. 6921 - 6934, as amended.  
11 The department may at any time extend coverage of regulations adopted  
12 under (a) of this section to small quantities of hazardous waste and  
13 acute hazardous waste.

14 (e) During the period July 1, 1986 through June 30, 1987 the  
15 department shall conduct a program to inform persons of their re-  
16 sponsibilities under regulations adopted under (a) of this section.

17 \* Sec. 2. AS 46.03.303 is repealed and reenacted to read:

18 Sec. 46.03.308. TRANSPORTATION OF HAZARDOUS WASTE. (a) Hazard-  
19 ous waste may not be transported in the state unless the waste is  
20 accompanied by a manifest and the generator has delivered a copy of  
21 the manifest to the department before the transportation begins.

22 (b) The department shall send a copy of each manifest received  
23 under (a) of this section to

24 (1) the state and local public safety agencies with juris-  
25 diction over areas covered by a hazardous waste transportation route;  
26 and

27 (2) the highest elected local official representing each  
28 area covered by a hazardous waste transportation route.

29 \* Sec. 3. AS 46.03 is amended by adding a new section to read:

1           Sec. 46.03.309. TEMPORARY COLLECTION OF HAZARDOUS WASTE. The  
2 department shall provide for the temporary collection of hazardous  
3 waste to be prepared for shipment to a federally approved hazardous  
4 waste disposal site. The department shall establish four periods in  
5 each calendar year during which it shall collect hazardous waste. A  
6 collection point may accept hazardous waste only from small quantity  
7 generators and household generators as defined by the Environmental  
8 Protection Agency.

9 \* Sec. 4. AS 46.03 is amended by adding new sections to read:

10           Sec. 46.03.313. HAZARDOUS WASTE MANAGEMENT FACILITIES AND SITES.

11 (a) The department shall evaluate and select potential sites for  
12 hazardous waste management facilities in the state. In evaluating and  
13 selecting sites for management facilities, the department shall con-  
14 sider at least the following factors:

15           (1) economic feasibility, including proximity to concen-  
16 trations of generators of the types of hazardous waste likely to be  
17 proposed and permitted for management;

18           (2) intrinsic suitability of the sites;

19           (3) federal and state pollution control and environmental  
20 protection regulations;

21           (4) the risk and effect for local residents, units of  
22 government, and the local public health, safety, and welfare, includ-  
23 ing such dangers as an accidental release of waste during transporta-  
24 tion to a facility or at a facility, water, air, and land pollution,  
25 and fire or explosion;

26           (5) the consistency of a facility with, and its effect on,  
27 existing and planned local land use and development; local laws,  
28 ordinances, and permits; and local public facilities and services; and

29           (6) the adverse effects of a facility at the site on agri-

1 nor and the legislature a preliminary report that includes

2 (1) proposals for the siting of hazardous waste management  
3 facilities in the state;

4 (2) proposals for the methods of financing and operating  
5 the facilities;

6 (3) proposals for the types of facilities that should be  
7 constructed, such as chemical processing facilities, incineration  
8 facilities, and transfer and storage facilities; and

9 (4) information about private hazardous waste management  
10 sites and facilities approved by the department.

11 (b) Not later than July 1, 1989, the department shall submit to  
12 the governor and the legislature a final report that includes

13 (1) identification of sites selected by the department for  
14 hazardous waste management facilities;

15 (2) recommendations for the methods of financing and oper-  
16 ating facilities at the sites listed in (1) of this subsection;

17 (3) recommendations for the types of facilities that should  
18 be constructed at sites listed in (1) of this subsection; and

19 (4) information about private hazardous waste management  
20 sites and facilities approved by the department.

21 \* Sec. 5. AS 46.03.760(a) is amended to read:

22 (a) A person who violates or causes or permits to be violated a  
23 provision of this chapter other than AS 46.03.250 - 46.03.314, or a  
24 provision of [OR] AS 46.04, or a regulation, a lawful order of the  
25 department, or a permit, approval, or acceptance, or term or condition  
26 of a permit, approval, or acceptance issued under this chapter or  
27 AS 46.04 is liable, in a civil action, to the state for a sum to be  
28 assessed by the court of not less than \$500 nor more than \$100,000 for  
29 the initial violation, nor more than \$5,000 for each day after that

1 [THEREAFTER] on which the violation continues, and that [WHICH] shall  
2 reflect, when applicable,

3 (1) reasonable compensation in the nature of liquidated  
4 damages for any adverse environmental effects caused by the violation,  
5 that [WHICH] shall be determined by the court according to the toxi-  
6 city, degradability and dispersal characteristics of the substance  
7 discharged, the sensitivity of the receiving environment, and the  
8 degree to which the discharge degrades existing environmental quality;

9 (2) reasonable costs incurred by the state in detection,  
10 investigation, and attempted correction of the violation; [AND]

11 (3) the economic savings realized by the person in not  
12 complying with the requirement for which a violation is charged.

13 \* Sec. 6. AS 46.03.760(b) is amended to read:

14 (b) Except as determined by the court under (f)(4) of this  
15 section, actions [ACTIONS] under this section may not be used for  
16 punitive purposes, and sums assessed by the court must be compensatory  
17 and remedial in nature.

18 \* Sec. 7. AS 46.03.760 is amended by adding a new subsection to read:

19 (f) A person who violates or causes or permits to be violated a  
20 provision of AS 46.03.250 - 46.03.314, or a regulation, a lawful order  
21 of the department, or a permit, approval, or acceptance, or term or  
22 condition of a permit, approval, or acceptance issued under AS 46.-  
23 03.250 - 46.03.314 is liable, in a civil action, to the state for a  
24 sum to be assessed by the court of not less than \$500 nor more than  
25 \$100,000 for the initial violation, nor more than \$10,000 for each day  
26 after that on which the violation continues, and that shall reflect,  
27 when applicable,

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29 damages for any adverse environmental effects caused by the violation.

1 that shall be determined by the court according to the toxicity,  
2 degradability and dispersal characteristics of the substance dis-  
3 charged, the sensitivity of the receiving environment, and the degree  
4 to which the discharge degrades existing environmental quality;

5 (2) reasonable costs incurred by the state in detection,  
6 investigation, and attempted correction of the violation;

7 (3) the economic savings realized by the person in not  
8 complying with the requirement for which a violation is charged; and

9 (4) the need for an enhanced civil penalty to deter future  
10 noncompliance.

\* Sec. 8. AS 46.03.790 is amended to read:

11 Sec. 46.03.790. CRIMINAL PENALTIES. (a) Except as provided in  
12 (d) - (f) of this section, a [A] person who negligently violates [OR  
13 WHO CAUSES OR PERMITS A VIOLATION OF] a provision of this chapter or  
14 AS 46.04, or of a regulation, lawful order of the department, or  
15 permit, approval, or acceptance, or term or condition of a permit,  
16 approval, or acceptance issued under this chapter or AS 46.04 is  
17 guilty of a class B misdemeanor.

18 (b) Except as provided in (d) - (f) of this section, a [A]  
19 person who knowingly [WILFULLY] violates a provision of this chapter  
20 or AS 46.04, or of a regulation, lawful order of the department, or  
21 permit, approval, or acceptance, or term or condition of a permit,  
22 approval, or acceptance issued under this chapter or AS 46.04 is  
23 guilty of a class A misdemeanor.

24 (c) Each day on which a violation described in [(a) OR (b) OF]  
25 this section occurs is considered a separate violation.

26 (d) Notwithstanding (a) and (b) of this section, a [A] person  
27 who fails to provide or falsely states information required under  
28 AS 46.03.05 or AS 46.04 is guilty of a misdemeanor and, upon convic-  
29

1 tion, is punishable by a fine of not more than \$25,000, or by  
2 imprisonment for not more than one year, or by both. Each unlawful  
3 act constitutes a separate offense.

4 (e) Notwithstanding (a) and (b) of this section, a person who  
5 knowingly (1) transports any hazardous waste to a facility without a  
6 permit required under AS 46.03.250 - 46.03.314; (2) treats, stores, or  
7 disposes of hazardous waste without a permit required under AS 46.-  
8 03.250 - 46.03.314; or (3) makes a false statement or representation  
9 in an application, label, manifest, record, report, permit, or other  
10 document filed, maintained, or used for purposes of compliance with  
11 the hazardous waste provisions of AS 46.03.250 - 46.03.314 or regu-  
12 lations adopted under those provisions, is punishable by a fine of not  
13 more than \$10,000 per day or by imprisonment for not more than one  
14 year, or both.

15 (f) Notwithstanding the penalty provisions of (a) - (e) of this  
16 section, a defendant that is an organization is, upon conviction of a  
17 violation of any of the provisions listed in this section, subject to  
18 the penalties set out in AS 12.55.035(c).

19 \* Sec. 9. AS 46.03.900 is amended by adding new paragraphs to read:

20 (36) "mining waste" means solid waste from the extraction,  
21 beneficiation and processing of ores and minerals, including coal, and  
22 including phosphate rock and overburden from the mining of uranium  
23 ore;

24 (37) "waste associated with the exploration, development, or  
25 production of crude oil, natural gas, or geothermal energy" means (A)  
26 waste, including drilling muds, cuttings, hydrocarbons, brine, acid,  
27 sand, and emulsions or mixtures of fluids produced from and unique to  
28 the operation or maintenance of a well, whether naturally occurring or  
29 added for the operation or productivity of the well; and (B) waste

1 that is derived intrinsically from primary field operations; "waste  
2 associated with the exploration, development, or production of crude  
3 oil, natural gas, or geothermal energy" does not include spent sol-  
4 vents and oils from equipment maintenance activities, discarded chemi-  
5 cal products, or fuels;

6 (38) "waste derived intrinsically from primary field op-  
7 erations" means waste produced from a well, and removed (A) at the  
8 drill site; or (B) at crude oil production facilities by crude oil or  
9 wastewater treatment process before custody transfer of the crude oil.

10 \* Sec. 10. AS 24.60 is amended by adding a new section to read:

11 Sec. 24.60.045. HAZARDOUS WASTE CONTRACTS. A legislative staff  
12 member may not solicit or receive a contract concerning hazardous  
13 waste from a state agency or department other than the legislature  
14 during the interim following a session in which the person worked.  
15 This section applies to legislative staff members range 18 or higher.  
16 In this section "hazardous waste" has the meaning given in  
17 AS 46.03.900.

18 \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
19 10.070(c).

Offered: 5/7/84  
Referred: Rules

Original sponsor: Resources Committee

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 503 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to hazardous waste; changing pen-  
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14 and hazardous waste that exhibits the characteristic of toxicity,  
15 persistence, or carcinogenicity. The department shall adopt these  
16 regulations not later than July 1, 1986, in accordance with the Admin-  
17 istrative Procedure Act (AS 44.62). These regulations shall take  
18 effect July 1, 1987.  
19 (b) Regulations adopted under (a) of this section shall exempt  
20 from their coverage mining waste and waste associated with the explo-  
21 ration, development, or production of crude oil, natural gas, or  
22 geothermal energy until studies required under 42 U.S.C. 6982(f) and  
23 (m) are completed. The department, after considering the findings in  
24 the reports of these studies, may terminate or amend the exemptions.  
25 (c) The department shall take all actions necessary to receive  
26 authorization from the administrator of the Environmental Protection  
27 Agency to administer and enforce a hazardous waste program in accor-  
28 dance with 42 U.S.C. 6901 - 6987 (Resource Conservation and Recovery  
29 Act of 1976).

1 (d) Regulations adopted under (a) of this section shall cover  
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3 in any month by a single generator in an amount of 220 pounds or more,  
4 and (2) acute hazardous wastes identified in 40 C.F.R. 261.33(e), not  
5 otherwise exempted by law, that are generated in any month by a single  
6 generator in an amount of 2.2 pounds or more. The department shall  
7 extend the regulations to manage smaller quantities of hazardous waste  
8 if the quantities specified in this subsection exceed the quantities  
9 regulated under the authority of 42 U.S.C. 6921 - 6934, as amended.  
10 The department may at any time extend coverage of regulations adopted  
11 under (a) of this section to small quantities of hazardous waste and  
12 acute hazardous waste.

13 (e) During the period July 1, 1986 through June 30, 1987 the  
14 department shall conduct a program to inform persons of their re-  
15 sponsibilities under regulations adopted under (a) of this section.

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20 the manifest to the department before the transportation begins.

21 (b) The department shall send a copy of each manifest received  
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24 diction over areas covered by a hazardous waste transportation route;  
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26 (2) the highest elected local official representing each  
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1 department shall provide for the temporary collection of hazardous  
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4 each calendar year during which it shall collect hazardous waste. A  
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9 Sec. 46.03.313. HAZARDOUS WASTE MANAGEMENT FACILITIES AND SITES.

10 (a) The department shall evaluate and select potential sites for  
11 hazardous waste management facilities in the state. In evaluating and  
12 selecting sites for management facilities, the department shall con-  
13 sider at least the following factors:

14 (1) economic feasibility, including proximity to concen-  
15 trations of generators of the types of hazardous waste likely to be  
16 proposed and permitted for management;

17 (2) intrinsic suitability of the sites;

18 (3) federal and state pollution control and environmental  
19 protection regulations;

20 (4) the risk and effect for local residents, units of  
21 government, and the local public health, safety, and welfare, includ-  
22 ing such dangers as an accidental release of waste during transporta-  
23 tion to a facility or at a facility, water, air, and land pollution,  
24 and fire or explosion;

25 (5) the consistency of a facility with, and its effect on,  
26 existing and planned local land use and development; local laws,  
27 ordinances, and permits; and local public facilities and services; and

28 (6) the adverse effects of a facility at the site on agri-  
29 culture and natural resources and opportunities to mitigate or

1 eliminate the adverse effects by stipulations, conditions, and re-  
2 quirements relating to the design and operation of a management facil-  
3 ity at the proposed site.

4 (b) By July 1, 1986, the department shall adopt regulations that

5 (1) interpret and clarify the factors listed in (a) of this  
6 section; and

7 (2) establish procedures for processing, reviewing, and  
8 approving or disapproving applications for the siting and operation of  
9 privately owned hazardous waste management facilities.

10 (c) The department may authorize the siting and operation of  
11 privately owned hazardous waste management facilities in accordance  
12 with factors and requirements established under this section.

13 (d) The department shall hold public hearings in each election  
14 district in which a hazardous waste management facility site is pro-  
15 posed to be located. The department shall give reasonable public  
16 notice of the time, date, and place of each public hearing at least 30  
17 days before the hearing. The public shall be afforded an opportunity  
18 at each hearing to submit written and oral testimony concerning a  
19 potential site. The department shall consider the testimony submitted  
20 at public hearings when it prepares reports under AS 46.03.314.

21 (e) For purposes of this section, "intrinsic suitability" of a  
22 site means that, based on existing data on the inherent and natural  
23 attributes, physical features, and location of the site, there is no  
24 known reason why a waste management facility that may be located in  
25 the site could not reasonably be expected to qualify for a permit  
26 under AS 46.03.302.

27 Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a)  
28 Not later than July 1, 1987, the department shall submit to the gover-  
29 nor and the legislature a preliminary report that includes

1 (1) proposals for the siting of hazardous waste management  
2 facilities in the state;

3 (2) proposals for the methods of financing and operating  
4 the facilities;

5 (3) proposals for the types of facilities that should be  
6 constructed, such as chemical processing facilities, incineration  
7 facilities, and transfer and storage facilities; and

8 (4) information about private hazardous waste management  
9 sites and facilities approved by the department.

10 (b) Not later than July 1, 1989, the department shall submit to  
11 the governor and the legislature a final report that includes

12 (1) identification of sites selected by the department for  
13 hazardous waste management facilities;

14 (2) recommendations for the methods of financing and oper-  
15 ating facilities at the sites listed in (1) of this subsection;

16 (3) recommendations for the types of facilities that should  
17 be constructed at sites listed in (1) of this subsection; and

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19 sites and facilities approved by the department.

20 \* Sec. 5. AS 46.03.760(a) is amended to read:

21 (a) A person who violates or causes or permits to be violated a  
22 provision of this chapter other than AS 46.03.250 - 46.03.314, or a  
23 provision of [OR] AS 46.04, or a regulation, a lawful order of the  
24 department, or a permit, approval, or acceptance, or term or condition  
25 of a permit, approval, or acceptance issued under this chapter or  
26 AS 46.04 is liable, in a civil action, to the state for a sum to be  
27 assessed by the court of not less than \$500 nor more than \$100,000 for  
28 the initial violation, nor more than \$5,000 for each day after that  
29 [THEREAFTER] on which the violation continues, and that [WHICH] shall

1 reflect, when applicable.

2 (1) reasonable compensation in the nature of liquidated  
3 damages for any adverse environmental effects caused by the violation,  
4 that [WHICH] shall be determined by the court according to the toxi-  
5 city, degradability and dispersal characteristics of the substance  
6 discharged, the sensitivity of the receiving environment, and the  
7 degree to which the discharge degrades existing environmental quality;

8 (2) reasonable costs incurred by the state in detection,  
9 investigation, and attempted correction of the violation; [AND]

10 (3) the economic savings realized by the person in not  
11 complying with the requirement for which a violation is charged.

12 \* Sec. 6. AS 46.03.760(b) is amended to read:

13 (b) Except as determined by the court under (f)(4) of this  
14 section, actions [ACTIONS] under this section may not be used for  
15 punitive purposes, and sums assessed by the court must be compensatory  
16 and remedial in nature.

17 \* Sec. 7. AS 46.03.760 is amended by adding a new subsection to read:

18 (f) A person who violates or causes or permits to be violated a  
19 provision of AS 46.03.250 - 46.03.314, or a regulation, a lawful order  
20 of the department, or a permit, approval, or acceptance, or term or  
21 condition of a permit, approval, or acceptance issued under AS 46.-  
22 03.250 - 46.03.314 is liable, in a civil action, to the state for a  
23 sum to be assessed by the court of not less than \$500 nor more than  
24 \$100,000 for the initial violation, nor more than \$10,000 for each day  
25 after that on which the violation continues, and that shall reflect,  
26 when applicable,

27 (1) reasonable compensation in the nature of liquidated  
28 damages for any adverse environmental effects caused by the violation,  
29 that shall be determined by the court according to the toxicity,

1 degradability and dispersal characteristics of the substance dis-  
2 charged, the sensitivity of the receiving environment, and the degree  
3 to which the discharge degrades existing environmental quality;

4 (2) reasonable costs incurred by the state in detection,  
5 investigation, and attempted correction of the violation;

6 (3) the economic savings realized by the person in not  
7 complying with the requirement for which a violation is charged; and

8 (4) the need for an enhanced civil penalty to deter future  
9 noncompliance.

10 \* Sec. 8. AS 46.03.790 is amended to read:

11 Sec. 46.03.790. CRIMINAL PENALTIES. (a) Except as provided in  
12 (d) - (f) of this section, a [A] person who negligently violates [OR  
13 WHO CAUSES OR PERMITS A VIOLATION OF] a provision of this chapter or  
14 AS 46.04, or of a regulation, lawful order of the department, or  
15 permit, approval, or acceptance, or term or condition of a permit,  
16 approval, or acceptance issued under this chapter or AS 46.04 is  
17 guilty of a class B misdemeanor.

18 (b) Except as provided in (d) - (f) of this section, a [A]  
19 person who knowingly [WILFULLY] violates a provision of this chapter  
20 or AS 46.04, or of a regulation, lawful order of the department, or  
21 permit, approval, or acceptance, or term or condition of a permit,  
22 approval, or acceptance issued under this chapter or AS 46.04 is  
23 guilty of a class A misdemeanor.

24 (c) Each day on which a violation described in [(a) OR (b) OF]  
25 this section occurs is considered a separate violation.

26 (d) Notwithstanding (a) and (b) of this section, a [A] person  
27 who fails to provide or falsely states information required under  
28 AS 46.03.755 or AS 46.04 is guilty of a misdemeanor and, upon convic-  
29 tion, is punishable by a fine of not more than \$25,000, or by

1 imprisonment for not more than one year, or by both. Each unlawful  
2 act constitutes a separate offense.

3 (e) Notwithstanding (a) and (b) of this section, a person who  
4 knowingly (1) transports any hazardous waste to a facility without a  
5 permit required under AS 46.03.250 - 46.03.314; (2) treats, stores, or  
6 disposes of hazardous waste without a permit required under AS 46.-  
7 03.250 - 46.03.314; or (3) makes a false statement or representation  
8 in an application, label, manifest, record, report, permit, or other  
9 document filed, maintained, or used for purposes of compliance with  
10 the hazardous waste provisions of AS 46.03.250 - 46.03.314 or regu-  
11 lations adopted under those provisions, is punishable by a fine of not  
12 more than \$10,000 per day or by imprisonment for not more than one  
13 year, or both.

14 (f) Notwithstanding the penalty provisions of (a) - (e) of this  
15 section, a defendant that is an organization is, upon conviction of a  
16 violation of any of the provisions listed in this section, subject to  
17 the penalties set out in AS 12.55.035(c).

18 \* Sec. 9. AS 46.03.900 is amended by adding new paragraphs to read:

19 (36) "mining waste" means solid waste from the extraction,  
20 beneficiation and processing of ores and minerals, including coal, and  
21 including phosphate rock and overburden from the mining of uranium  
22 ore;

23 (37) "waste associated with the exploration, development, or  
24 production of crude oil, natural gas, or geothermal energy" means (A)  
25 waste, including drilling muds, cuttings, hydrocarbons, brine, acid,  
26 sand, and emulsions or mixtures of fluids produced from and unique to  
27 the operation or maintenance of a well, whether naturally occurring or  
28 added for the operation or productivity of the well; and (B) waste  
29 that is derived intrinsically from primary field operations; "waste

1 associated with the exploration, development, or production of crude  
2 oil, natural gas, or geothermal energy" does not include spent sol-  
3 vents and oils from equipment maintenance activities, discarded chemi-  
4 cal products, or fuels;

5 (38) "waste derived intrinsically from primary field op-  
6 erations" means waste produced from a well, and removed (A) at the  
7 drill site; or (B) at crude oil production facilities by crude oil or  
8 wastewater treatment process before custody transfer of the crude oil.

9 \* Sec. 10. This Act takes effect immediately in accordance with AS 01.-  
10 10.070(c).

Offered: 4/24/84  
Referred: Judiciary

Original sponsor: Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 CS FOR SENATE BILL NO. 503 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to hazardous waste; changing pen-  
7 alties for environmental pollution violations; and  
8 providing for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. AS 46.03.299 is repealed and reenacted to read:  
11 Sec. 46.03.299. REGULATION OF HAZARDOUS WASTE. (a) The depart-  
12 ment shall, in accordance with the Administrative Procedure Act  
13 (AS 44.62),  
14 (1) adopt by reference and enforce regulations relating to  
15 hazardous waste management adopted by the federal government under  
16 42 U.S.C. 6921 - 6934, as amended; and  
17 (2) not later than July 1, 1986, adopt other regulations  
18 that take effect July 1, 1987, for the management of hazardous waste,  
19 including waste that exhibits the characteristic of toxicity, persis-  
20 tence, or carcinogenicity, or other characteristics identified as  
21 hazardous by the Environmental Protection Agency.  
22 (b) Regulations adopted under (a) of this section shall exempt  
23 from their coverage mining waste and waste associated with the explo-  
24 ration, development, or production of crude oil, natural gas, or  
25 geothermal energy until studies required under 42 U.S.C. 6982(f) and  
26 (m) are completed. The department, after considering the findings in  
27 the reports of these studies, may terminate or amend the exemptions.  
28 (c) The department shall take all actions necessary to receive  
29 authorization from the administrator of the Environmental Protection

1 Agency to administer and enforce a hazardous waste program in accor-  
2 dance with 42 U.S.C. 6901 - 6987 (Resource Conservation and Recovery  
3 Act of 1976).

4 (d) Regulations adopted under (a) of this section shall cover  
5 (1) hazardous waste, not otherwise exempted by law, that is generated  
6 in any month by a single generator in an amount of 220 pounds or more,  
7 and (2) acute hazardous wastes identified in 40 C.F.R. 261.33(e), not  
8 otherwise exempted by law, that are generated in any month by a single  
9 generator in an amount of 2.2 pounds or more. The department shall  
10 extend the regulations to manage smaller quantities of hazardous waste  
11 if the quantities specified in this subsection exceed the quantities  
12 regulated under the authority of 42 U.S.C. 6921 - 6934, as amended.  
13 The department may at any time extend coverage of regulations adopted  
14 under (a)(2) of this section to small quantities of hazardous waste  
15 and acute hazardous waste.

16 (e) During the period July 1, 1986 through June 30, 1987 the  
17 department shall conduct a program to inform persons of their re-  
18 sponsibilities under regulations adopted under (a)(2) of this section.

19 \* Sec. 2. AS 46.03.308 is repealed and reenacted to read:

20 Sec. 46.03.308. TRANSPORTATION OF HAZARDOUS WASTE. (a) Hazard-  
21 ous waste may not be transported in the state unless the waste is  
22 accompanied by a manifest and the generator or transporter has de-  
23 livered a copy of the manifest to the department before the transpor-  
24 tation begins.

25 (b) The department shall send a copy of each manifest received  
26 under (a) of this section to the state and local public safety agen-  
27 cies with jurisdiction over areas covered by a hazardous waste trans-  
28 portation route.

29 \* Sec. 3. AS 46.03 is amended by adding a new section to read:

1           Sec. 46.03.309. TEMPORARY COLLECTION OF HAZARDOUS WASTE.    The  
2    department shall provide for the temporary collection of hazardous  
3    waste to be prepared for shipment to a federally approved hazardous  
4    waste disposal site. The department shall establish four periods in  
5    each calendar year during which it shall collect hazardous waste.    A  
6    collection point may accept hazardous waste only from small quantity  
7    generators and household generators as defined by the Environmental  
8    Protection Agency.

9    \* Sec. 4. AS 46.03 is amended by adding new sections to read:

10           Sec. 46.03.313. HAZARDOUS WASTE MANAGEMENT FACILITIES AND SITES.

11    (a) The department shall evaluate and select potential sites for  
12    hazardous waste management facilities in the state. In evaluating and  
13    selecting sites for management facilities, the department shall con-  
14    sider at least the following factors:

15           (1) economic feasibility, including proximity to concen-  
16    trations of generators of the types of hazardous waste likely to be  
17    proposed and permitted for management;

18           (2) intrinsic suitability of the sites;

19           (3) federal and state pollution control and environmental  
20    protection regulations;

21           (4) the risk and effect for local residents, units of  
22    government, and the local public health, safety, and welfare, includ-  
23    ing such dangers as an accidental release of waste during transporta-  
24    tion to a facility or at a facility, water, air, and land pollution,  
25    and fire or explosion;

26           (5) the consistency of a facility with, and its effect on,  
27    existing and planned local land use and development; local laws,  
28    ordinances, and permits; and local public facilities and services; and

29           (6) the adverse effects of a facility at the site on

1 agriculture and natural resources and opportunities to mitigate or  
2 eliminate the adverse effects by stipulations, conditions, and re-  
3 quirements relating to the design and operation of a management facil-  
4 ity at the proposed site.

5 (b) By July 1, 1986, the department shall adopt regulations that

6 (1) interpret and clarify the factors listed in (a) of this  
7 section; and

8 (2) establish procedures for processing, reviewing, and  
9 approving or disapproving applications for the siting and operation of  
10 privately owned hazardous waste management facilities.

11 (c) The department may authorize the siting and operation of  
12 privately owned hazardous waste management facilities in accordance  
13 with factors and requirements established under this section.

14 (d) The department shall hold public hearings in each election  
15 district in which a hazardous waste management facility site is pro-  
16 posed to be located. The department shall give reasonable public  
17 notice of the time, date, and place of each public hearing at least 30  
18 days before the hearing. The public shall be afforded an opportunity  
19 at each hearing to submit written and oral testimony concerning a  
20 potential site. The department shall consider the testimony submitted  
21 at public hearings when it prepares reports under AS 46.03.314.

22 (e) For purposes of this section, "intrinsic suitability" of a  
23 site means that, based on existing data on the inherent and natural  
24 attributes, physical features, and location of the site, there is no  
25 known reason why a waste management facility that may be located in  
26 the site could not reasonably be expected to qualify for a permit  
27 under AS 46.03.302.

28 Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a)  
29 Not later than July 1, 1987, the department shall submit to the

1 governor and the legislature a preliminary report that includes

2 (1) proposals for the siting of hazardous waste management  
3 facilities in the state;

4 (2) proposals for the methods of financing and operating  
5 the facilities;

6 (3) proposals for the types of facilities that should be  
7 constructed, such as chemical processing facilities, incineration  
8 facilities, and transfer and storage facilities; and

9 (4) information about private hazardous waste management  
10 sites and facilities approved by the department.

11 (b) Not later than July 1, 1989, the department shall submit to  
12 the governor and the legislature a final report that includes

13 (1) identification of sites selected by the department for  
14 hazardous waste management facilities;

15 (2) recommendations for the methods of financing and oper-  
16 ating facilities at the sites listed in (1) of this subsection;

17 (3) recommendations for the types of facilities that should  
18 be constructed at sites listed in (1) of this subsection; and

19 (4) information about private hazardous waste management  
20 sites and facilities approved by the department.

21 \* Sec. 5. AS 46.03.760(a) is amended to read:

22 (a) A person who violates or causes or permits to be violated a  
23 provision of this chapter other than AS 46.03.250 - 46.03.314, or a  
24 provision of [OR] AS 46.04, or a regulation, a lawful order of the  
25 department, or a permit, approval, or acceptance, or term or condition  
26 of a permit, approval, or acceptance issued under this chapter or  
27 AS 46.04 is liable, in a civil action, to the state for a sum to be  
28 assessed by the court of not less than \$500 nor more than \$100,000 for  
29 the initial violation, nor more than \$5,000 for each day after that

1 [THEREAFTER] on which the violation continues, and that [WHICH] shall  
2 reflect, when applicable,

3 (1) reasonable compensation in the nature of liquidated  
4 damages for any adverse environmental effects caused by the violation,  
5 that [WHICH] shall be determined by the court according to the toxi-  
6 city, degradability and dispersal characteristics of the substance  
7 discharged, the sensitivity of the receiving environment, and the  
8 degree to which the discharge degrades existing environmental quality;

9 (2) reasonable costs incurred by the state in detection,  
10 investigation, and attempted correction of the violation; [AND]

11 (3) the economic savings realized by the person in not  
12 complying with the requirement for which a violation is charged.

13 \* Sec. 6. AS 46.03.760(b) is amended to read:

14 (b) Except as determined by the court under (f)(4) of this  
15 section, actions [ACTIONS] under this section may not be used for  
16 punitive purposes, and sums assessed by the court must be compensatory  
17 and remedial in nature.

18 \* Sec. 7. AS 46.03.760 is amended by adding a new subsection to read:

19 (f) A person who violates or causes or permits to be violated a  
20 provision of AS 46.03.250 - 46.03.314, or a regulation, a lawful order  
21 of the department, or a permit, approval, or acceptance, or term or  
22 condition of a permit, approval or acceptance issued under AS 46.-  
23 03.250 - 46.03.314 is liable, in a civil action, to the state for a  
24 sum to be assessed by the court of not less than \$500 nor more than  
25 \$100,000 for the initial violation, nor more than \$10,000 for each day  
26 after that on which the violation continues, and that shall reflect,  
27 when applicable,

28 (1) reasonable compensation in the nature of liquidated  
29 damages for any adverse environmental effects caused by the violation,

1 that shall be determined by the court according to the toxicity,  
2 degradability and dispersal characteristics of the substance dis-  
3 charged, the sensitivity of the receiving environment, and the degree  
4 to which the discharge degrades existing environmental quality;

5 (2) reasonable costs incurred by the state in detection,  
6 investigation, and attempted correction of the violation;

7 (3) the economic savings realized by the person in not  
8 complying with the requirement for which a violation is charged; and

9 (4) the need for an enhanced civil penalty to deter future  
10 noncompliance.

11 \* Sec. 8. AS 46.03.790 is amended to read:

12 Sec. 46.03.790. CRIMINAL PENALTIES. (a) Except as provided in  
13 (d) - (f) of this section, a [A] person who negligently violates [OR  
14 WHO CAUSES OR PERMITS A VIOLATION OF] a provision of this chapter or  
15 AS 46.04, or of a regulation, lawful order of the department, or  
16 permit, approval, or acceptance, or term or condition of a permit,  
17 approval, or acceptance issued under this chapter or AS 46.04 is  
18 guilty of a class B misdemeanor.

19 (b) Except as provided in (d) - (f) of this section, a [A]  
20 person who knowingly [WILFULLY] violates a provision of this chapter  
21 or AS 46.04, or of a regulation, lawful order of the department, or  
22 permit, approval, or acceptance, or term or condition of a permit,  
23 approval, or acceptance issued under this chapter or AS 46.04 is  
24 guilty of a class A misdemeanor.

25 (c) Each day on which a violation described in [(a) OR (b) OF]  
26 this section occurs is considered a separate violation.

27 (d) Notwithstanding (a) and (b) of this section, a [A] person  
28 who fails to provide or falsely states information required under  
29 AS 46.03.755 or AS 46.04 is guilty of a misdemeanor and, upon convic-

1 tion, is punishable by a fine of not more than \$25,000, or by impri-  
2 sonment for not more than one year, or by both. Each unlawful act  
3 constitutes a separate offense.

4 (e) Notwithstanding (a) and (b) of this section, a person who  
5 knowingly (1) transports any hazardous waste to a facility without a  
6 permit required under AS 46.03.250 - 46.03.314; (2) treats, stores, or  
7 disposes of hazardous waste without a permit required under AS 46.-  
8 03.250 - 46.03.314; or (3) makes a false statement or representation  
9 in an application, label, manifest, record, report, permit, or other  
10 document filed, maintained, or used for purposes of compliance with  
11 the hazardous waste provisions of AS 46.03.250 - 46.03.314 or regu-  
12 lations adopted under those provisions, is punishable by a fine of not  
13 more than \$10,000 per day or by imprisonment for not more than one  
14 year, or both.

15 (f) Notwithstanding the penalty provisions of (a) - (e) of this  
16 section, a defendant that is an organization is, upon conviction of a  
17 violation of any of the provisions listed in this section, subject to  
18 the penalties set out in AS 12.55.035(c).

19 \* Sec. 9. AS 46.03.900 is amended by adding new paragraphs to read:

20 (36) "mining waste" means solid waste from the extraction,  
21 beneficiation and processing of ores and minerals, including coal, and  
22 including phosphate rock and overburden from the mining of uranium  
23 ore;

24 (37) "waste associated with the exploration, development, or  
25 production of crude oil, natural gas, or geothermal energy" means

26 (A) waste, including drilling mud, cuttings, hydro-  
27 carbons, brine, acid, sand, and emulsions or mixtures of fluids  
28 produced from and unique to the operation or maintenance of a  
29 well, whether naturally occurring or added for the operation or

1 productivity of the well; and

2 (B) waste that is derived intrinsically from primary  
3 field operations;

4 (38) "waste derived intrinsically from primary field op-  
5 erations" means waste produced from a well, and removed (A) at the  
6 drill site by crude oil and wastewater treatment process; or (B) at  
7 crude oil production facilities before custody transfer; "waste de-  
8 rived intrinsically from primary field operations" does not include  
9 spent solvent from equipment maintenance activities, discarded chemi-  
10 cal products, or fuel.

11 \* Sec. 10. This Act takes effect immediately in accordance with AS 01.-  
12 10.070(c).

Introduced: 2/14/84  
Referred: Resources and  
Judiciary

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

SENATE BILL NO 503

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to hazardous wastes."

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

8 \* Section 1. AS 46.03.100(c) is amended to read:

9 (c) A permit for disposal of a hazardous waste may not be issued  
10 under this section unless the applicant for the permit satisfies those  
11 department regulations that are consistent with and equivalent to  
12 regulations of the Environmental Protection Agency adopted under  
13 42 U.S.C. 6924 - 6925 and has furnished proof to the commissioner of  
14 financial ability to control the hazardous waste. [PROOF OF FINANCIAL  
15 RESPONSIBILITY MAY BE DEMONSTRATED BY SELF-INSURANCE, INSURANCE,  
16 SURETY, OR GUARANTEE, UNDER REGULATIONS ISSUED BY THE DEPARTMENT.  
17 ACCEPTANCE OF PROOF OF FINANCIAL RESPONSIBILITY UNDER THIS SUBSECTION  
18 EXPIRES

19 (1) ONE YEAR FROM ITS ISSUANCE FOR SELF-INSURANCE;

20 (2) ON THE EFFECTIVE DATE OF A CHANGE IN THE SURETY BOND,  
21 GUARANTEE, OR INSURANCE AGREEMENT; OR

22 (3) ON THE EXPIRATION OR CANCELLATION OF THE SURETY BOND,  
23 GUARANTEE, OR INSURANCE AGREEMENT.]

24 \* Sec. 2. AS 46.03.250 is amended to read:

25 Sec. 46.03.250. AUTHORITY. (a) The department shall adopt  
26 regulations

27 (1) establishing standards governing the discharge of low  
28 level radioactive materials to the air, water, land, and subsurface  
29 land of the state;

1 (2) establishing safeguards for radioactive waste materials  
2 that do not constitute a threat to public health or safety and that  
3 may be stored or disposed of in the state; and

4 (3) establishing procedures for the storage and disposal of  
5 radioactive materials used in medicine, education, instruments, indus-  
6 trial testing, or scientific research; and

7 (4) required by regulations adopted by the Environmental  
8 Protection Agency under 42 U.S.C. 6926 for approval of a state  
9 hazardous waste management program.

10 (b) The department has exclusive jurisdiction to adopt and  
11 enforce regulations for the control of hazardous wastes in the state.

12 \* Sec. 3. AS 46.03.296(b) is amended to read:

13 (b) The department shall adopt regulations in accordance with  
14 the Administrative Procedure Act (AS 44.62) for the treatment, stor-  
15 age, transportation, and disposal of hazardous wastes to ensure the  
16 protection of human health, livestock, wildlife, property, and the  
17 environment.

18 \* Sec. 4. AS 46.03.299 is repealed and reenacted to read:

19 Sec. 46.03.299. CONTROL OF HAZARDOUS WASTES. (a) The depart-  
20 ment shall facilitate coordination with federal, state, and local  
21 agencies in adopting regulations under the Administrative Procedure  
22 Act (AS 44.62) for a comprehensive state hazardous waste program  
23 consistent with 42 U.S.C. 6901 - 6987 and regulations adopted under  
24 those sections by the Environmental Protection Agency.

25 (b) The department shall

26 (1) identify the characteristics of hazardous wastes, as  
27 identified in regulations of the Environmental Protection Agency  
28 adopted under 42 U.S.C. 6921(b);

29 (2) establish

- 1 (A) criteria for listing hazardous wastes;
- 2 (B) requirements for hazardous waste that is used,
- 3 re-used, recycled, or reclaimed; and
- 4 (C) exclusions;
- 5 (3) adopt as a preliminary list the lists of hazardous
- 6 wastes identified by the Environmental Protection Agency in regulations
- 7 adopted under 42 U.S.C. 6921(b);
- 8 (4) identify the sources of hazardous wastes listed under
- 9 (3) of this subsection or enumerated under (c) of this section;
- 10 (5) qualify the department to receive authorization from
- 11 the administrator of the Environmental Protection Agency to administer
- 12 and enforce a hazardous waste program in accordance with 42 U.S.C.
- 13 6901 - 6987;
- 14 (6) determine the amount of a hazardous waste that is so
- 15 small as to not present a hazard to public health, livestock, fish,
- 16 wildlife, and the environment of the state when disposed of;
- 17 (7) adopt preliminary requirements for hazardous waste
- 18 produced by small quantity generators as specified under 42 U.S.C.
- 19 6921 - 6922;
- 20 (8) adopt, in accordance with 42 U.S.C. 6924,
- 21 (A) criteria for identifying appropriate hazardous
- 22 waste disposal site locations;
- 23 (B) procedures by which the public shall have oppor-
- 24 tunit to
- 25 (i) participate in hazardous waste disposal site
- 26 locations; and
- 27 (ii) review and comment on issuance of hazardous
- 28 waste disposal permits by the department.
- 29 (c) Two years after the date on which the Environmental

1 Protection Agency approves the state hazardous waste program, the  
2 department may

3 (1) develop new regulations for small quantity generators  
4 if the Environmental Protection Agency fails to revise 40 C.F.R.  
5 261.5, dated April 1, 1983; and

6 (2) enumerate specific hazardous wastes, within the meaning  
7 of AS 46.03.900(32), subject to the provisions of AS 46.03.302 and  
8 46.03.305; however, the department may not list as hazardous a waste  
9 that has not been listed as a hazardous waste by the United States  
10 Environmental Protection Agency under 42 U.S.C. 6921, unless the  
11 commissioner first determines that the waste is hazardous as defined  
12 in this chapter.

13 \* Sec. 5. AS 46.03.311(b) is amended to read:

14 (b) Information that is confidential may be transmitted under a  
15 continuing restriction of confidentiality to other officers, employ-  
16 ees, or authorized representatives of the state or of the United  
17 States if

18 (1) the person responsible for furnishing the record,  
19 report, permit, application, or information to which such information  
20 pertains is informed at least two weeks before the transmittal, except  
21 that information obtained under AS 46.03.296 - 46.03.311 shall be made  
22 available under a claim of confidentiality to the Environmental Pro-  
23 tection Agency upon request of the agency; and

24 (2) the information has been acquired by the department  
25 under the provisions of AS 46.03.296 - 46.03.311.

26 \* Sec. 6. AS 46.03 is amended by adding new sections to read:

27 Sec. 46.03.312. CIVIL REMEDIES AND PENALTIES. (a) In the  
28 enforcement of AS 46.03.296 - 46.03.311 the department may

29 (1) petition the superior court for injunctive relief to

1           restrain a person from engaging in an unauthorized activity that is  
2           endangering or damaging the public health or the environment;

3                       (2) assess a civil fine under (b) of this section; or

4                       (3) bring an action in the superior court seeking civil  
5           penalties under (b) of this section.

6                       (b) A violation of a provision of AS 46.03.296 - 46.03.311 is  
7           punishable by a civil fine of not less than \$10,000 and not more than  
8           \$100,000 for the first day of the offense, and a civil fine of not  
9           more than \$10,000 per day for each day the offense continues.

10           Sec. 46.03.313. CRIMINAL PENALTIES. A person who knowingly  
11           transports a hazardous waste to an unpermitted facility, or who know-  
12           ingly treats, stores, or disposes of a hazardous waste without a  
13           permit, or who knowingly makes a false statement or a misrepresenta-  
14           tion in an application, label, manifest, record, report, permit, or  
15           other document filed, maintained, or used for the purposes of AS 46.-  
16           03.296 - 46.03.311, is guilty of a class B misdemeanor and shall be  
17           sentenced to a fine of not less than \$10,000 per day and not more than  
18           \$50,000 per day for each day during which the offense continued and to  
19           a term of imprisonment of not less than 180 days.

20           Sec. 46.03.314. DUTIES OF THE DEPARTMENT. The department shall

21                       (1) investigate and respond in writing to a complaint filed  
22           by a citizen in accordance with the provisions of 42 U.S.C. 6901 -  
23           6987; and

24                       (2) provide public notice and a public comment period of  
25           not less than 30 days for a proposed settlement of a department en-  
26           forcement action.

27           \* Sec. 7. AS 46.03.760(a) is amended to read:

28                       (a) A person who violates or causes or permits to be violated a  
29           provision of this chapter, other than AS 46.03.296 - 46.03.311, or

1 AS 46.04, or a regulation, a lawful order of the department, or a  
2 permit, approval, or acceptance, or term or condition of a permit,  
3 approval, or acceptance issued under this chapter or AS 46.04 is  
4 liable, in a civil action, to the state for a sum to be assessed by  
5 the court of not less than \$500 nor more than \$100,000 for the initial  
6 violation, nor more than \$5,000 for each day thereafter on which the  
7 violation continues, and which shall reflect, when applicable,

8 (1) reasonable compensation in the nature of liquidated  
9 damages for any adverse environmental effects caused by the violation,  
10 which shall be determined by the court according to the toxicity,  
11 degradability and dispersal characteristics of the substance dis-  
12 charged, the sensitivity of the receiving environment, and the degree  
13 to which the discharge degrades existing environmental quality;

14 (2) reasonable costs incurred by the state in detection,  
15 investigation, and attempted correction of the violation; and

16 (3) the economic savings realized by the person in not  
17 complying with the requirement for which a violation is charged.

18 \* Sec. 8. AS 46.03.790(a) is amended to read:

19 (a) A person who violates or who causes or permits a violation  
20 of a provision of this chapter other than AS 46.03.296 - 46.03.311 or  
21 AS 46.04, or of a regulation, lawful order of the department, or  
22 permit, approval, or acceptance, or term or condition of a permit,  
23 approval, or acceptance issued under a provision of this chapter other  
24 than AS 46.03.296 - 46.03.311 or under AS 46.04 is guilty of a class B  
25 misdemeanor.

26 \* Sec. 9. AS 46.03.790(b) is amended to read:

27 (b) A person who wilfully violates a provision of this chapter  
28 other than AS 46.03.296 - 46.03.311, or of a regulation, lawful order  
29 of the department, or permit, approval, or acceptance, or term or

1 condition of a permit, approval, or acceptance issued under a provi-  
2 sion of this chapter other than AS 46.03.296 - 46.03.311 or under  
3 AS 46.04 is guilty of a class A misdemeanor.

Introduced: 2/20/84  
Referred: Judiciary and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 504

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the unauthorized use of computers  
7 and telecommunications services."

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

9 \* Section 1. As 11.46.200(a) is amended by adding a new paragraph to  
10 read:

11 (3) the person obtains the use of computer time, a computer  
12 system, or a computer network, or any part of a computer system or  
13 network, with reckless disregard that the use by that person is un-  
14 authorized.

15 \* Sec. 2. As 11.46.200 is amended by adding a new subsection to read:

16 (c) In a prosecution for theft based on the theft of cable,  
17 microwave, subscription, or pay television or other telecommunications  
18 service, it is an affirmative defense that the device used to obtain  
19 the service was designed to intercept electromagnetic signals, includ-  
20 ing the device commonly referred to as a "home earth station," and  
21 that

22 (1) the device was acquired by the person before the effec-  
23 tive date of this Act, and that after that date the device was not  
24 used for a commercial purpose; or

25 (2) when the person first acquired the device

26 (A) the service was not available to that person  
27 through the payment of a lawful fee to a commercial provider of  
28 the service; and

29 (B) after the service became available from a

1 commercial provider through the payment of a lawful fee, the  
2 person did not use the service for a commercial purpose.

3 \* Sec. 3. AS 11.46.482(a) is amended by adding a new paragraph to read:

4 (5) that person sells, leases, trades, or offers for sale,  
5 lease, or trade, any device designed to intercept cable, microwave,  
6 subscription, or pay television or other telecommunications service  
7 with intent to allow a user to avoid the payment of a lawful fee for  
8 the service.

9 \* Sec. 4. AS 11.46.484(a) is amended by adding a new paragraph to read:

10 (5) that person intentionally accesses a computer, computer  
11 system, computer network, or any part of a computer system or network.

12 \* Sec. 5. AS 11.46.484 is amended by adding a new subsection to read:

13 (d) As used in this section, "access" means to instruct, commu-  
14 nicate with, or otherwise obtain the ability to use the resources of a  
15 computer, computer system, computer network, or any part of a computer  
16 system or network.

17 \* Sec. 6. AS 11.46.990 is amended by adding new paragraphs to read:

18 (8) "computer" means an electronic device that perform:  
19 logical, arithmetic, and memory functions by the manipulation of elec-  
20 tronic or magnetic impulses;

21 (9) "computer network" means the interconnection of commu-  
22 nication lines, including by microwave or other means of electronic  
23 communication, between computers or between computers and remote  
24 terminals;

25 (10) "computer system" means a set of related computer  
26 equipment, devices, and software;

27 \* Sec. 7. AS 11.81.900(b)(51) is amended to read:

28 (51) "services" includes labor; [,] professional services;  
29 [,] transportation; [,] telephone or other communications service; [,]

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entertainment, including cable, microwave, subscription, or pay television or other telecommunications service; the supplying of food, lodging, or other accommodations in hotels, restaurants, or elsewhere; [,] admission to exhibitions; [,] the use of a computer, computer time, a computer system, a computer network, or any part of a computer system or network; and the supplying of equipment for use;

Offered: 3/26/84  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 504 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the unauthorized use of tele-  
7 communications services."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 11.46.200 is amended by adding a new subsection to  
10 read:  
11 (c) A person may not be prosecuted under this section for theft  
12 of cable, microwave, subscription, or pay television or other tele-  
13 communications service if the service was obtained through the use of  
14 a device designed and used to intercept electromagnetic signals di-  
15 rectly from a satellite, including a device commonly referred to as a  
16 home earth station.  
17 \* Sec. 2. AS 11.46.484(a) is amended to read:  
18 (a) A person commits the crime of criminal mischief in the third  
19 degree if, having no right to do so or any reasonable ground to be-  
20 lieve the person has such a right  
21 (1) with intent to damage property of another, the person  
22 damages property of another in an amount of \$50 or more but less than  
23 \$500;  
24 (2) the person drives, tows away, or takes the propelled  
25 vehicle of another;  
26 (3) having custody of a propelled vehicle under a written  
27 agreement with the owner of the vehicle that [WHICH] includes an  
28 agreement to return the ven<sup>d</sup> to the owner at a specified time, the  
29 person knowingly retains or withhold<sup>s</sup> possession of the vehicle

1 without the consent of the owner for so long a period beyond the time  
2 specified as to render the retention or possession of the vehicle an  
3 unreasonable deviation from the agreement; [OR]

4 (4) the person tampers with a fire protection device in a  
5 building that [WHICH] is a public place; or

6 (5) the person uses a device to descramble an electronic  
7 signal that has been scrambled to prevent unauthorized receipt or  
8 viewing of the signal, including the unauthorized use of a device  
9 commonly referred to as a descrambler.

10 \* Sec. 3. AS 11.81.900(b)(51) is amended to read:

11 (51) "services" includes labor, professional services,  
12 transportation, telephone or other communications service, entertain-  
13 ment, including cable, subscription, or pay television or other tele-  
14 communications service, the supplying of food, lodging, or other  
15 accommodations in hotels, restaurants, or elsewhere, admission to  
16 exhibitions, and the supplying of equipment for use;

COMMITTEE REPORT  
SENATE

FURTHER:

FINANCE

2/20/84

Date

MARCH 23, 1984

Mr. President

The Committee on JUDICIARY considered SB 504

unauthorized use of computer and telecommunications service.

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

- do pass
- do pass with attached amendment(s)
- replace with/~~or adopt~~ CS for SB 504 (FUD)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Bill Ray

Chairman

DO PASS

Chairman recommendation



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

see 504

February 20, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that strengthens and clarifies existing law regarding two modern forms of stealing: unauthorized access to computers and theft of telecommunications services. Particularly with regard to computer crime, a subject that has recently received substantial national public attention, existing statutes might be inadequate to assure successful prosecution in some areas.

Existing law provides adequate coverage when a person uses a computer to aid in the commission of a crime, damages or obtains information stored in a computer without proper authorization, or actually steals computer equipment. In cases involving unauthorized access to or unauthorized use of computers, however, existing law is inadequate in its coverage. This bill addresses these inadequacies by specifically including the theft of computer services, including the unauthorized use of computer time, within the definition of "theft" in the Criminal Code. The penalty for this form of theft will be based on the same classification structure applicable to all other theft offenses. The value of the computer services unlawfully obtained will determine the degree of crime that is committed. For example, the theft of computer services having a value of \$500 or more will be a class C felony, punishable by a maximum term of imprisonment of five years and a \$50,000 fine, under sec. 1 of this bill and existing AS 11.46.130.

In some cases, the state may only be able to establish that the person gained unauthorized access to the computer, but did not actually use the computer for personal purposes nor take or damage information stored in the computer. In this case, prosecution may be brought under sec. 4 of the bill which classifies this conduct as a form of criminal mischief in the third degree, a class A misdemeanor punishable by a maximum sentence of 1 year imprisonment and a \$5,000 fine. This penalty would help deter unauthorized entry into a computer system through the breaking of an access code, conduct which is commonly referred to as "hacking."

The second major aspect of the bill is its provisions clarifying the law on the theft of telecommunications services. Under existing law, there is no specific coverage of theft of commercially provided telecommunications services, such as cable television. While it can be argued that some forms of telecommunications theft are already prohibited by existing law, police and prosecutors have been understandably reluctant to proceed in this area in the absence of specific legislative direction.

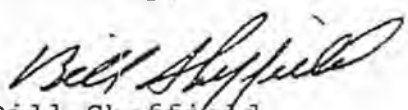
The provisions of this bill pertaining to theft of telecommunications services are aimed primarily at the person who sells a device that is designed to allow the user to defraud the provider of a commercial telecommunication service of the fee that has been established for the service. The person who sells or offers to sell these devices is guilty, under sec. 3 of the bill, of criminal mischief in the second degree, a class C felony. On the other hand, the person who actually uses the device commits "theft of services" by virtue of the inclusion of telecommunications services within the definition of "services" in sec. 7 of the bill. This definition will permit prosecution under the existing theft of services statute, AS 11.46.200(a)(1), which prohibits a person from obtaining, through deception, services that are only offered to the public for a fee. The penalty for this form of theft depends on the value of the services that were obtained. If, for example, the unauthorized device is used for only one month to avoid a monthly fee of \$40, theft in the fourth degree, a class B misdemeanor, has occurred since the value of the service obtained was less than \$50. See AS 11.46.150. On the other hand, if the device is maintained for two years, the crime of theft in the second degree, a class C felony, has occurred, since the value of the service obtained was more than \$500. See AS 11.46.-130.

26 564

Similar telecommunications legislation was considered by the legislature in 1982. That legislation passed the Senate, but failed to receive approval in the House because of the legislator's concern that it would make "criminals" out of Alaskans who had obtained home earth stations to receive television coverage at a time when their area was not served by commercial telecommunications companies. This bill attempts to address that concern in sec. 2, which recognizes an affirmative defense to the crime of theft of services in two situations. The first involves the person who purchased a "home earth station" before the effective date of this legislation, assuming that the use of the device did not violate Alaska law. If the person uses the device only for personal purposes after the effective date of this Act, that person may not be convicted of a crime. The second defense allows a person to acquire a home earth station at any time if commercial telecommunications services are not available to that person through the payment of a fee, so long as the person uses the device only for noncommercial purposes once commercial service becomes available.

The combined effect of both defenses is to provide a person who bought a home earth station or similar device before the effective date of this Act, or before pay TV services were available in his area, and who uses the device solely for personal purposes, may not be convicted of a crime. Some may argue that it is unfair to exclude this conduct from criminal liability through a "grandfather" clause. The proposed defenses, however, may be the only equitable way to treat persons who invested substantial sums of money to purchase an earth station before a specific state law prohibited using the station to receive telecommunications services without the payment of a fee to the provider of the service.

Sincerely,



Bill Sheffield  
Governor

FR accompanied  
sent into  
Commissioner

FISCAL NOTE

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

REQUEST

Bill/Resolution No.: SB 504

Title: "...unauthorized use of computer and telecomm. svcs."

Sponsor: by request of the Gov.

Requestor: OMB - Gov.'s Off.

Date of Request: 2/15/84

FISCAL DETAIL

Agency Affected: Department of Law

Program Category Affected: \_\_\_\_\_

Admin. of Justice

BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues Phone: 465-3672  
 Division: Administrative Services Division Date: 2-15-84

Approved by Richard I. Pegues Commissioner: Norman C. Gorsuch Date: 2-15-84  
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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

Fiscal Note  
Analysis

February 15, 1984

This bill strengthens and clarifies existing law regarding two modern forms of stealing; unauthorized access to computers and theft of telecommunications services. The bill incorporates the theft of computer services, including computer time, within the definition of Theft in the Criminal Code. The bill also includes telecommunications services within the definition of "services" in the Theft of Services statute. Although enactment of the bill will result in additional prosecutions, the Department of Law does not believe that their number will have a fiscal impact, and any new prosecutions can be absorbed using existing prosecution resources.

FISCAL NOTE

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

REQUEST

Bill/Resolution No.: 51504  
 Title: "...unauthorized use of computer and telecomm. svcs."  
 Sponsor: by request of the Gov.  
 Requestor: OMB - Gov.'s Off.  
 Date of Request: 2/15/84

FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: Admin. of Justice  
 BRU, Program or Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2-15-84  
 Approved by Commissioner: Norman C. Gorsuch Date: 2-15-84  
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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

Fiscal Note  
Analysis

February 15, 1984

This bill strengthens and clarifies existing law regarding two modern forms of stealing; unauthorized access to computers and theft of telecommunications services. The bill incorporates the theft of computer services, including computer time, within the definition of Theft in the Criminal Code. The bill also includes telecommunications services within the definition of "services" in the Theft of Services statute. Although enactment of the bill will result in additional prosecutions, the Department of Law does not believe that their number will have a fiscal impact, and any new prosecutions can be absorbed using existing prosecution resources.

COMMITTEE REPORT  
SENATE

FURTHER:

5/24/84

Date 5/30/84

Mr. President

The Committee on FINANCE considered SB 509  
establishing the Pacific Rim Fellowship; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation *FN 2/15/84*
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_

\_\_\_\_\_

*Ed. [unclear]*

*V. [unclear]*

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Chairman

Chairman recommendation

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: SB 505  
Title: RE: Pacific Rim Fellowship

Sponsor: Rules RE: Governor  
Requestor: \_\_\_\_\_  
Date of Request: 2/15/84

FISCAL DETAIL

Agency Affected: Education  
Program Category Affected: Postsecondary Commission  
BRU, Program or Subprogram(s) Affected: Pacific Rim Fellows (New Subprogram)

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		1.5	1.6	1.7	1.8	1.9
400 SUPPLIES		.3	.3	.3	.4	.4
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		100.0	100.0	100.0	100.0	100.0
800 MISCELLANEOUS						
TOTAL OPERATING	N.A.	101.8	101.9	102.0	102.2	102.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND	N.A.	101.8	101.9	102.0	102.2	102.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis (Based upon 10 fellows per year)

Prepared By: Kerry D. Romesburg, Executive Director Phone: 465-2854  
Division: Alaska Commission on Postsecondary Education Date: 2/15/84

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

12/1/83

Introduced: 2/20/84  
Referred: State Affairs and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 505

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Pacific Rim fellowship; and  
7 providing for an effective date."

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

9 \* Section 1. AS 14.43 is amended by adding new sections to read:

10 ARTICLE 7. PACIFIC RIM FELLOWSHIP PROGRAM.

11 Sec. 14.43.505. PURPOSE. The purpose of AS 14.43.505 -- 14.43.-  
12 545 is to provide graduate fellowships for Alaskans to study in Pacif-  
13 ic Rim countries and citizens of Pacific Rim countries to study in  
14 Alaska. The fellowships are established to increase understanding be-  
15 tween the people of Alaska and the people of Pacific Rim countries and  
16 to enhance and promote international cooperation for educational and  
17 cultural exchange and mutual economic benefits.

18 Sec. 14.43.510. FIELDS OF STUDY. A fellowship under AS 14.43.-  
19 505 -- 14.43.545 may be awarded for one academic year of study at an  
20 eligible institution, in one of the following fields:

- 21 (1) language of the host country;  
22 (2) natural resource management, including timber, forest-  
23 ry, and fisheries;  
24 (3) agriculture;  
25 (4) tourism;  
26 (5) economics;  
27 (6) public administration;  
28 (7) business administration; or  
29 (8) marketing.

1           Sec. 14.43.515. PARTICIPATION AND ELIGIBILITY.    A person is  
2 eligible for a fellowship under AS 14.43.505 -- 14.43.545 if the  
3 person

4           (1) is a citizen of the United States or a Pacific Rim  
5 country;

6           (2) is a resident of

7                 (A) Alaska, as "resident" is defined in AS 14.43.125;

8           or

9                 (B) a Pacific Rim country;

10          (3) holds an undergraduate or baccalaureate degree from an  
11 institution of higher education;

12          (4) is recommended for a fellowship by an official of the  
13 institution of higher education

14                 (A) from which the undergraduate or baccalaureate  
15 degree was awarded;

16                 (B) sponsoring the applicant; or

17                 (C) to which the applicant is applying;

18          (5) demonstrates enough language proficiency in the lan-  
19 guage of the host country to carry on the proposed study, or makes  
20 provision for study of the language of the host country in the plan of  
21 study for which the fellowship is sought;

22          (6) applies for and is accepted by an eligible institution  
23 for at least one academic year of graduate study in one of the fields  
24 listed in AS 14.43.510; and

25          (7) provides the commission with a plan of study for the  
26 academic year for which the fellowship is sought.

27          Sec. 14.43.520. TERMS AND CONDITIONS OF FELLOWSHIPS.   (a)  
28 fellowship granted under AS 14.43.505 -- 14.43.545 may not exceed one  
29 academic year. A person may not receive more than one fellowship

1 under AS 14.43.505 -- 14.43.545.

2 (b) The amount of a fellowship is determined by adding together  
3 the cost of tuition and fees, room and board, books and supplies, one  
4 round trip airfare from the recipient's home to the institution to be  
5 attended, and a living stipend of \$900. However, a fellowship under  
6 AS 14.43.505 -- 14.43.545 may not exceed \$10,000.

7 (c) To continue to receive money under a fellowship, the recipi-  
8 ent must be enrolled as a full-time graduate student in good standing,  
9 as defined by the institution of attendance.

10 Sec. 14.43.525. ADMINISTRATION. The commission may adopt regu-  
11 lations in accordance with the Administrative Procedure Act (AS 44.62)  
12 to implement and make specific the provisions of AS 14.43.505 -- 14.-  
13 43.545.

14 Sec. 14.43.530. SELECTION COMMITTEE. (a) The commission shall  
15 serve as the selection committee for a fellowship awarded under AS 14.  
16 43.505 -- 14.43.545, but may delegate its selection function to a  
17 subcommittee. The commission may appoint people from outside the com-  
18 mission to serve on the subcommittee.

19 (b) In making its fellowship selection recommendations to the  
20 governor, the commission shall consider

21 (1) the previous academic record of the applicant;

22 (2) the applicant's plan of study and relationship of the  
23 plan of study to the purposes set out in AS 14.43.505;

24 (3) recommendations received concerning the applicant; and

25 (4) other factors the commission considers appropriate.

26 Sec. 14.43.535. FELLOWSHIP AWARDS. (a) The governor, on the  
27 recommendation of the commission, shall make the award of a fellow-  
28 ship.

29 (b) No more than half of the number of fellowships awarded for

1 an academic year may be awarded for study in Pacific Rim countries  
2 other than the United States.

3 Sec. 14.43.540. FUNDING. The Pacific Rim fellowship program is  
4 financed by appropriations from the general fund and from money donat-  
5 ed to the state for the purpose of AS 14.43.505 -- 14.43.545.

6 Sec. 14.43.545. DEFINITIONS. In AS 14.43.505 -- 14.43.545

7 (1) "academic year" means the period from August 15 of one  
8 calendar year through August 14 of the following calendar year;

9 (2) "commission" means the Alaska Commission on Postsecond-  
10 ary Education;

11 (3) "eligible institution" means an institution approved by  
12 the commission which offers a degree higher than a baccalaureate de-  
13 gree and which is located in Alaska or one of the Pacific Rim coun-  
14 tries;

15 (4) "fellowship" means a Pacific Rim fellowship described  
16 in AS 14.43.520;

17 (5) "graduate study" means a program of study encompassing  
18 work beyond the baccalaureate level; and

19 (6) "Pacific Rim country" means a country, bordering the  
20 North or South Pacific Ocean or adjacent seas, which has common inter-  
21 ests with Alaska in matters affecting trade and commerce.

22 \* Sec. 2. This Act takes effect July 1, 1984.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

06505

February 20, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that creates a program of academic graduate fellowships for educational exchange between Alaska and countries of the Pacific Rim.

The fellowship program is designed to increase understanding between the people of Alaska and the people of neighboring Pacific Rim countries. The program will afford the opportunity for Alaskans to demonstrate and share their educational and cultural interests, developments, and achievements with people of the Pacific Rim while at the same time learning from them. It is also the purpose of the fellowship program to promote international cooperation that will enhance trade which is of long-term mutual economic benefit to Alaska and neighboring countries.

The bill will provide financial assistance for selected Alaskan students to study for one year in a university located in a Pacific Rim country as well as assist selected students from the Pacific Rim to study here.

Private industry, both in Alaska and in Pacific Rim countries, will be encouraged to participate in the fellowship program through contributions of financial resources and other means that promote long-term economic development and trade.

- 2 -

The fellowship program will be administered by the Alaska Commission on Postsecondary Education. Regulations will be adopted as necessary for program administration, in accordance with the Administrative Procedure Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: SB 505  
Title: RE: Pacific Rim Fellowship

Sponsor: Rules RE: Governor  
Requestor: \_\_\_\_\_  
Date of Request: 2/15/84

FISCAL DETAIL

Agency Affected: Education  
Program Category Affected: Postsecondary  
Commission

BRU, Program or Subprogram(s) Affected:  
Pacific Rim Fellows (New Subprogram)

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		1.5	1.6	1.7	1.8	1.9
400 SUPPLIES		.3	.3	.3	.4	.4
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		100.0	100.0	100.0	100.0	100.0
800 MISCELLANEOUS						
TOTAL OPERATING	N.A.	101.8	101.9	102.0	102.2	102.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	101.8	101.9	102.0	102.2	102.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis (Based upon 10 fellows per year)

Prepared By: Kerry D. Romesburg, Executive Director Phone: 465-2854  
Division: Alaska Commission on Postsecondary Date: 2/15/84  
Education

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

12/1/83

COMMITTEE REPORT  
SENATE

FURTHER:

FINANCE

2/20/84

Date MAY 23

Mr. President

The Committee on STATE AFFAIRS considered SB 505  
establishing the Pacific Rim fellowship; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title \_\_\_\_\_
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

~~\_\_\_\_\_~~  
 1 Curtis Stump  
 1 Bob Brady  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2 Kelly - No Pass  
 2 Brian Kay No Pass  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

V. Fisher  
 Chairman  
do pass  
 Chairman recommendation

COMMITTEE REPORT  
HOUSE

(11)

FURTHER:

5/1/84

Date: 5-7-84

The Committee on FINANCE has had SA 503

"An act making supplemental appropriations to the Department of Health and Social Services for payment as grants to Bethel Social Services, Inc. and Sitka Youth Advocates, Inc.; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>HS</sup> CS for SA 503 (final)  same title  
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_

\_\_\_\_\_

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CHAIRMAN

Original sponsor: Finance Committee

Funding Information

General Fund	\$166,510
Other Funds	-0-
	<u>\$166,510</u>

IN THE SENATE

BY THE FINANCE COMMITTEE

HOUSE CS FOR SENATE BILL NO. 508 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making supplemental appropriations to the Department of Health and Social Services for payment as grants to Bethel Social Services, Inc. and Sitka Youth Advocates, Inc.; and providing for an effective date."

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

\* Section 1. The sum of \$100,000 is appropriated from the general fund to the Department of Health and Social Services for payment as a grant to Bethel Social Services, Inc. for the operation of the Bethel Receiving Home during the fiscal years ending June 30, 1984 and June 30, 1985.

\* Sec. 2. The sum of \$66,510 is appropriated from the general fund to the Department of Health and Social Services for payment as a grant to Sitka Youth Advocates, Inc. for the operation of the Sitka Receiving Home during the fiscal years ending June 30, 1984 and June 30, 1985.

\* Sec. 3. The appropriations made by this Act shall be disbursed in accordance with AS 37.05.316.

\* Sec. 4. The appropriations made by this Act lapse June 30, 1985.

\* Sec. 5. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Introduced: 2/24/84  
Referred: Health, Education and  
Social Services and  
Finance

Funding Information  
General Fund \$166,510  
Other Funds -0-  
\$166,510

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS SENATE BILL NO. 508 (FIN)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making supplemental appropriations to the  
7 Department of Health and Social Services for payment  
8 as grants to Bethel Social Services, Inc. and Sitka  
9 Youth Advocates, Inc.; and providing for an effective  
10 date."

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

12 \* Section 1. The sum of \$100,000 is appropriated from the general fund  
13 to the Department of Health and Social Services for payment as a grant to  
14 Bethel Social Services, Inc. for the operation of the Bethel Receiving Home  
15 during the fiscal year ending June 30, 1984 *and June 30, 1985.*

16 \* Sec. 2. The sum of \$66,510 is appropriated from the general fund to  
17 the Department of Health and Social Services for payment as a grant to  
18 Sitka Youth Advocates, Inc. for the operation of the Sitka Receiving Home  
19 during the fiscal year ending June 30, 1984 *and June 30, 1985.*

20 \* Sec. 3. The appropriations made by this Act shall be disbursed in  
21 accordance with AS 37.05.316.

22 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.-  
23 10.070(c).

*and do not lapse until June 30, 1985*

period of suspension, payment for services provided by residential child care facilities shall be made solely in accordance with the provisions of secs. 1 and 4 of this Act.

\* Sec. 3. For fiscal year 1983, the payment authorized per day for each child placed by the Department of Health and Social Services in an existing residential care facility is:

Alaska Children's Services Receiving Home (Anchorage)	\$149.25
Alaska Children's Services Jesse Lee Home (Anchorage)	165.44
Alaska Children's Services Rabbit Creek Group Home (Anchorage)	166.4.
Alaska Children's Services North Star Home (Anchorage)	103.55
Alaska Children's Services Aquarius House (Anchorage)	107.60
Alaska Children's Services Colletti House (Anchorage)	117.50
Alaska Baptist Family Service Center (Anchorage)	117.60
Booth Memorial Home (Anchorage)	144.9
Hilltop Home, Inc. (Anchorage)	85.50
Kenai Peninsula Community Care Center (Kenai)	91.70
Kodiak Baptist Mission (Kodiak)	61.00
Turning Point Boys Ranch (Willow)	105.30
North Star Children's Home (Dot Lake)	62.20
Presbyterian Hospitality House (Fairbanks)	111.90
Juneau Receiving Home (Juneau)	100.10
St. Jude Center, Inc. Receiving Home (Juneau)	72.30
Home Receiving Home (Nome)	116.00
Manilaq Group Home (Kotzebue)	167.00
North Slope Borough Children's Receiving Home (Barrow)	168.00
Ketchikan Teen Home I (Ketchikan)	74.00
Ketchikan Teen Home II (Ketchikan)	81.00
Ketchikan Children's Home Intensive Treatment Unit (Ketchikan)	152.00
Sitka Receiving Home (Sitka)	40.00

Bethel Receiving Home (Bethel)	75.52
Bethel Group Home (Bethel)	59.06
Covenant High School (Unalakleet)	51.16

\* Sec. 4. For fiscal year 1984 the payment rates for residential child care services shall be the amounts set out in sec. 3 of this Act increased by five percent.

\* Sec. 5. For fiscal years 1983 and 1984 the Department of Health and Social Services may contract for residential child care services with a facility not listed in sec. 3 of this Act at a rate to be determined by the department.

\* Sec. 6. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.075. VISION AND HEARING SCREENING EXAMINATIONS. (a) A vision and hearing screening examination shall be given to each child attending school in the state. The examination shall be made when the child enters school or as soon thereafter as is practicable, and at regular intervals specified by regulation by the governing body of the district.

(b) The Department of Health and Social Services shall

- (1) set standards for the performance of vision and hearing screening;
- (2) train and certify public health nurses and school district employees to conduct hearing and vision screening tests;
- (3) assist with referral and follow-up of children needing professional examination or treatment; and
- (4) assist with maintenance and repair of screening equipment.

\* Sec. 7. AS 44.29.020 is amended to read:

Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health and Social Services shall administer the state programs of public health and social services, including: (1) maternal and child health services;



## Bethel Social Services, Inc.

• A PRIVATE NON-PROFIT CORPORATION •

Hon. Senator John Sackett  
State Capitol  
Pouch V  
Juneau, Alaska 99811

Dear Senator Sackett:

Here is the information your aide, Max Gifford, requested of us for the supplemental appropriation for the operation of the Bethel Receiving Home.

As you already know, there was a freeze imposed on the cost of care rates two years ago. We were not aware of this freeze and at that time were expecting our rate at the Receiving Home to increase following an audit that we requested. The audit was denied by the State, and we were told we would have to make do with the existing rate.

To prepare the figure we are requesting for the supplemental, I have taken an average of the rates paid to the residential child care centers in the State of Alaska (Anchorage, Willow, Fairbanks, Barrow, Bethel, and Nome) and subtracted our rate from the average. I then multiplied this figure by the number of child care days. As you will see we had a great number of child care days, and that in itself should show you how valuable this project is to the Delta region. The facility has been greatly utilized this past year and with this additional operational monies, we will be able to make the Bethel Receiving Home a First rate facility to house the children of the Delta.

Sincerely,

Loreen M. Foster  
Administrative Director, B.S.S.

ACS Receiving Home, Anchorage	\$ 149.85
ACS Aquarius House, Anchorage	149.85
ACS Colletti House, Anchorage	117.51
ACS Jesse Lee, Anchorage	165.46
ACS North Star, Anchorage	103.55
ACS Rabbit Creek Grp. Hm., Anch.	166.40
Booth Memorial Home, Anchorage	146.90
Hilltop Home, Inc., Anchorage	85.53
Turning Point Boys Ranch, Willow	105.37
PHH-Receiving Home, Fairbanks	111.98
PHH-Treatment Unit, Fairbanks	111.98
North Slope Borough Rec. Hm., Barrow	170.80
Bethel Receiving Home, Bethel	79.30
Bethel Group Home, Bethel	59.06
Nome Receiving Home, Nome	105.20
	<hr/>
TOTAL	\$1832.74

\$1832.74 divided by 15 centers is an average rate of \$122.18 per day.

The Bethel Receiving Home's rate is \$79.30, subtracted from the average gives us a deficit of \$42.88.

The Bethel Receiving Home had a total of 2,369 provider days last FY year ('83).

2369 multiplied by \$42.88 is a total supplemental request of \$ 101,582.72

TOTAL SUPPLEMENTAL REQUEST - \$ 101,582.72

# ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN  
RESOURCES COMMITTEE  
JUDICIARY COMMITTEE  
FISHERIES SUB-COMMITTEE



P.O. BOX 143  
SITKA, ALASKA 99835  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4916

## MEMORANDUM

TO: Senator John Sackett  
FROM: Senator Dick Eliason *Dick E*  
DATE: February 21, 1984  
RE: Supplemental appropriation for Sitka Receiving Home

Due to the exceptional low daily rate allowed the Sitka Receiving Home (\$42.70 per "provider day") over the last two fiscal years there is a critical, and unfair shortfall in the Home's operating budget. Sitka, like Bethel, received a small supplemental grant last session to help them over the FY 83 shortfall but we need to provide coverage for FY 84. Hopefully, legislation will pass this session which will finally correct the inequity in funding for these homes and both Bethel and Sitka will be self-sustaining on their allowed payments after this year.

It would seem reasonable to figure Sitka at the same level of funding as the Juneau Receiving Home. Sitka has been at \$42.70 while Juneau is at \$111.48. The difference per day of care is then \$68.78. In FY 83 Sitka provided 967 days of care. FY 84 is likely to be at about that same level. Therefore a reasonable supplement amount to include for the Sitka Receiving Home now for FY 84 would be \$66,510 (\$68.78, the difference between the Sitka rate and the Juneau rate, multiplied by the estimated number of days of care provided.)

I would very much appreciate any help you could provide in getting this funding in.



Official Business

# Alaska State Legislature

Senate

Committee on Finance

Pouch V  
State Capitol  
Juneau, Alaska 99811

MEMORANDUM APR 09 1984

TO: Members, SENATE FINANCE COMMITTEE

FROM: Senator John Sackett *JCS*

Subj: SB-508, supplemental appropriations for Bethel Social Services and Sitka Youth Advocates.

Amount: \$166,510

Attached are the current daily rates established by Ch. 138, SLA 1982, for residential care facilities when a child is placed by the Department of Health and Social Services.

As you know, it is acknowledged that both rate schedules for Bethel and Sitka were miscalculated. ✓

SB-508 provides funding to correct the inequity in the daily rate.

Attached also, are a memo from Senator Eliason explaining the method of calculating the Sitka shortfall and a memo from Bethel Social Services, Inc. fully detailing their funding shortfall.

A supplemental was offered last year to offset funding shortfalls for Bethel (SB-97), and Senator Eliason was able to reappropriate funds to cover the Sitka shortfall. This is the last year a supplemental should be necessary as legislation creating a new funding system for care facilities is now pending before the Legislature (SB-431).



Official Business

# Alaska State Legislature

## Senate

### Committee on Finance

Pouch V  
State Capitol  
Juneau, Alaska 99811

April 19, 1984

#### MEMORANDUM

To: Representative Mae Tischer  
Chair, House HESS Committee

From: Senator John Sackett *JCS*

Subject: Calendaring of SB 508, supplemental appropriations for  
Bethel Social Services and Sitka Youth Services

In 1982, the Legislature suspended the "full cost of care" funding mechanism for residential child care and established an interim frozen rate schedule. Because of the cyclical nature of the figures used as a base in establishing those rates, the Bethel and Sitka programs have suffered unfair funding shortfalls every year since then.

I have attached additional backup information and am requesting that you calendar SB 508 as soon as possible. Thank you in advance.

Introduced: 2/24/84  
Referred: Health, Education and  
Social Services and  
Finance

Funding Information  
General Fund \$166,510  
Other Funds -0-  
\$166,510

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 SENATE BILL NO. 508

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making supplemental appropriations to the  
7 Department of Health and Social Services for payment  
8 as grants to Bethel Social Services, Inc. and Sitka  
9 Youth Advocates, Inc.; and providing for an effective  
10 date."

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

12 \* Section 1. The sum of \$100,000 is appropriated from the general fund  
13 to the Department of Health and Social Services for payment as a grant to  
14 Bethel Social Services, Inc. for the operation of the Bethel Receiving Home  
15 during the fiscal year ending June 30, 1984.

16 \* Sec. 2. The sum of \$66,510 is appropriated from the general fund to  
17 the Department of Health and Social Services for payment as a grant to  
18 Sitka Youth Advocates, Inc. for the operation of the Sitka Receiving Home  
19 during the fiscal year ending June 30, 1984.

20 \* Sec. 3. The appropriations made by this Act shall be disbursed in  
21 accordance with AS 37.05.316.

22 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.-  
23 10.070(c).

COMMITTEE REPORT  
SENATE

FURTHER:

3/15/84

Date April 10, 1984

Mr. President

The Committee on FINANCE considered SB 538

supplemental appropriations to the Department of Health and Social Services for payment of grants to Infant Social Services, Inc. and Sikh Youth Adventure, Inc.; and.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

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\_\_\_\_\_

Chairman

Chairman recommendation

Introduced: 2/24/84  
Referred: Health, Education and  
Social Services and  
Finance

Funding Information  
General Fund \$166,510  
Other Funds -0-  
\$166,510

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 SENATE BILL NO. 508

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making supplemental appropriations to the  
7 Department of Health and Social Services for payment  
8 as grants to Bethel Social Services, Inc. and Sitka  
9 Youth Advocates, Inc.; and providing for an effective  
10 date."

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

12 \* Section 1. The sum of \$100,000 is appropriated from the general fund  
13 to the Department of Health and Social Services for payment as a grant to  
14 Bethel Social Services, Inc. for the operation of the Bethel Receiving Home  
15 during the fiscal year ending June 30, 1984.

16 \* Sec. 2. The sum of \$66,510 is appropriated from the general fund to  
17 the Department of Health and Social Services for payment as a grant to  
18 Sitka Youth Advocates, Inc. for the operation of the Sitka Receiving Home  
19 during the fiscal year ending June 30, 1984.

20 \* Sec. 3. The appropriations made by this Act shall be disbursed in  
21 accordance with AS 37.05.316.

22 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.-  
23 10.070(c).

# COMMITTEE REPORT

## SENATE

FURTHER:

FINANCE

2/24/84

Date March 14, 1984

Mr. President

The Committee on HESS considered SB 508

supplemental appropriations to the Department of Health and Social Services for payment as grants to Bethel Social Services, Inc. and Sitka Youth Advocates, Inc.; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Rich Halford  
Paul Fink  
V. Fisher  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Jim Joseph  
Chairman  
DO PASS  
Chairman recommendation



Official Business

# Alaska State Legislature

Senate

Committee on Finance

Pouch V  
State Capitol  
Juneau, Alaska 99811

MEMORANDUM APR 09 1984

TO: Members, SENATE FINANCE COMMITTEE

FROM: Senator John Sackett *JCS*

Subj: SB-508, supplemental appropriations for Bethel Social Services and Sitka Youth Advocates.

Amount: \$166,510

Attached are the current daily rates established by Ch. 138, SLA 1982, for residential care facilities when a child is placed by the Department of Health and Social Services.

As you know, it is acknowledged that both rate schedules for Bethel and Sitka were miscalculated.

SB-508 provides funding to correct the inequity in the daily rate.

Attached also, are a memo from Senator Eliason explaining the method of calculating the Sitka shortfall and a memo from Bethel Social Services, Inc. fully detailing their funding shortfall.

A supplemental was offered last year to offset funding shortfalls for Bethel (SB-97), and Senator Eliason was able to reappropriate funds to cover the Sitka shortfall. This is the last year a supplemental should be necessary as legislation creating a new funding system for care facilities is now pending before the Legislature (SB-431).

1 period of suspension, payment for services provided by residential child care  
2 facilities shall be made solely in accordance with the provisions of secs. 3  
3 and 4 of this Act.

4 \* Sec. 3. For fiscal year 1983, the payment authorized per day for each  
5 child placed by the Department of Health and Social Services in an existing  
6 residential care facility is:

7	Alaska Children's Services Receiving Home (Anchorage)	\$149.75
8	Alaska Children's Services Jesse Lee Home (Anchorage)	165.40
9	Alaska Children's Services Rabbit Creek Group Home (Anchorage)	166.40
10	Alaska Children's Services North Star Home (Anchorage)	103.50
11	Alaska Children's Services Aquarius House (Anchorage)	107.40
12	Alaska Children's Services Colletti House (Anchorage)	117.50
13	Alaska Baptist Family Service Center (Anchorage)	117.50
14	Booth Memorial Home (Anchorage)	146.90
15	Hilltop Home, Inc. (Anchorage)	85.50
16	Kenai Peninsula Community Care Center (Kenai)	91.70
17	Kodiak Baptist Mission (Kodiak)	61.00
18	Turning Point Boys Ranch (Willow)	105.10
19	North Star Children's Home (Dot Lake)	62.20
20	Presbyterian Hospitality House (Fairbanks)	111.90
21	Juneau Receiving Home (Juneau)	106.10
22	St. Jude Center, Inc. Receiving Home (Juneau)	72.40
23	Home Receiving Home (Nome)	116.00
24	Manilaq Group Home (Kotzebue)	167.00
25	North Slope Borough Children's Receiving Home (Barrow)	168.00
26	Ketchikan Teen Home I (Ketchikan)	74.00
27	Ketchikan Teen Home II (Ketchikan)	81.00
28	Ketchikan Children's Home Intensive Treatment Unit (Ketchikan)	157.50
29	Sitka Receiving Home (Sitka)	40.00

Bethel Receiving Home (Bethel)	75.52
Bethel Group Home (Bethel)	59.06
Covenant High School (Unalakleet)	51.16

\* Sec. 4. For fiscal year 1984 the payment rates for residential child  
care services shall be the amounts set out in sec. 3 of this Act increased by  
five percent.

\* Sec. 5. For fiscal years 1983 and 1984 the Department of Health and  
Social Services may contract for residential child care services with a  
facility not listed in sec. 3 of this Act at a rate to be determined by the  
Department.

\* Sec. 6. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.075. VISION AND HEARING SCREENING EXAMINATIONS. (a) A  
vision and hearing screening examination shall be given to each child  
attending school in the state. The examination shall be made when the  
child enters school or as soon thereafter as is practicable, and at  
regular intervals specified by regulation by the governing body of the  
district.

(b) The Department of Health and Social Services shall

- (1) set standards for the performance of vision and hearing  
screening;
- (2) train and certify public health nurses and school district  
employees to conduct hearing and vision screening tests;
- (3) assist with referral and follow-up of children needing  
professional examination or treatment; and
- (4) assist with maintenance and repair of screening equipment.

\* Sec. 7. AS 44.29.020 is amended to read:

Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health  
and Social Services shall administer the state programs of public health  
and social services, including: (1) maternal and child health services;

AN ACT

relating to vision and hearing screening examinations,  
public assistance, and other assistance provided by the  
state; and providing for an effective date.

Section 1. FINDINGS. The legislature finds that the present method for establishing payment rates under AS 47.40 for residential child care services is inadequate. The Department of Health and Social Services shall conduct a study of alternatives to the method of establishing payment rates under AS 47.40. The study shall be conducted by a committee of five members appointed by the commissioner of the Department of Health and Social Services. Three members of the committee shall be employees of the Department of Health and Social Services and two members shall be providers of residential child care services. The study shall contain, among other matters determined by the Department, a suggested redefinition of the manner in which rates for residential child care services are calculated, a consideration of the method and amount of reimbursement for capital costs of residential child care facilities, and the availability and use of other sources of money to finance residential child care services and to finance the construction of residential child care facilities. The committee shall report its findings to the legislature on or before the 30th day of the Second Session of the Thirteenth Legislature. The legislature further finds that the rates established under AS 47.40 should be suspended from June 30, 1982 to July 1, 1984.

Section 2. The operation of AS 47.05.010(14), AS 47.40.010, 47.40.040, and 47.40.050 is suspended from July 1, 1982 through June 30, 1984. During the

# ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN  
RESOURCES COMMITTEE  
JUDICIARY COMMITTEE  
FISHERIES SUB-COMMITTEE



P.O. BOX 143  
SITKA, ALASKA 99835

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4916

## MEMORANDUM

TO: Senator John Sackett  
FROM: Senator Dick Eliason *Dick E*  
DATE: February 21, 1984  
RE: Supplemental appropriation for Sitka Receiving Home

Due to the exceptional low daily rate allowed the Sitka Receiving Home (\$42.70 per "provider day") over the last two fiscal years there is a critical, and unfair shortfall in the Home's operating budget. Sitka, like Bethel, received a small supplemental grant last session to help them over the FY 83 shortfall but we need to provide coverage for FY 84. Hopefully, legislation will pass this session which will finally correct the inequity in funding for these homes and both Bethel and Sitka will be self-sustaining on their allowed payments after this year.

It would seem reasonable to figure Sitka at the same level of funding as the Juneau Receiving Home. Sitka has been at \$42.70 while Juneau is at \$111.48. The difference per day of care is then \$68.78. In FY 83 Sitka provided 967 days of care. FY 84 is likely to be at about that same level. Therefore a reasonable supplement amount to include for the Sitka Receiving Home now for FY 84 would be \$66,510 (\$68.78, the difference between the Sitka rate and the Juneau rate, multiplied by the estimated number of days of care provided.)

I would very much appreciate any help you could provide in getting this funding in.



## Bethel Social Services, Inc.

• A PRIVATE NON-PROFIT CORPORATION •

Hon. Senator John Sackett  
State Capitol  
Pouch V  
Juneau, Alaska 99811

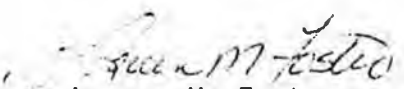
Dear Senator Sackett:

Here is the information your aide, Max Gifford, requested of us for the supplemental appropriation for the operation of the Bethel Receiving Home.

As you already know, there was a freeze imposed on the cost of care rates two years ago. We were not aware of this freeze and at that time were expecting our rate at the Receiving Home to increase following an audit that we requested. The audit was denied by the State, and we were told we would have to make do with the existing rate.

To prepare the figure we are requesting for the supplemental, I have taken an average of the rates paid to the residential child care centers in the State of Alaska (Anchorage, Willow, Fairbanks, Barrow, Bethel, and Nome) and subtracted our rate from the average. I then multiplied this figure by the number of child care days. As you will see we had a great number of child care days, and that in itself should show you how valuable this project is to the Delta region. The facility has been greatly utilized this past year and with this additional operational monies, we will be able to make the Bethel Receiving Home a First rate facility to house the children of the Delta.

Sincerely,

  
Loreen M. Foster  
Administrative Director, B.S.S.

ACS Receiving Home, Anchorage	\$ 149.85
ACS Aquarius House, Anchorage	149.85
ACS Colletti House, Anchorage	117.51
ACS Jesse Lee, Anchorage	165.46
ACS North Star, Anchorage	103.55
ACS Rabbit Creek Grp. Hm., Anch.	166.40
Booth Memorial Home, Anchorage	146.90
Hilltop Home, Inc., Anchorage	85.53
Turning Point Boys Ranch, Willow	105.37
PHH-Receiving Home, Fairbanks	111.98
PHH-Treatment Unit, Fairbanks	111.98
North Slope Borough Rec. Hm., Barrow	170.80
Bethel Receiving Home, Bethel	79.30
Bethel Group Home, Bethel	59.06
Nome Receiving Home, Nome	105.20
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TOTAL	\$1832.74

\$1832.74 divided by 15 centers is an average rate of \$122.18 per day.

The Bethel Receiving Home's rate is \$79.30, subtracted from the average gives us a deficit of \$42.88.

The Bethel Receiving Home had a total of 2,369 provider days last FY year ('83).

2369 multiplied by \$42.88 is a total supplemental request of \$ 101,582.72

TOTAL SUPPLEMENTAL REQUEST - \$ 101.582.72