

LEG. FINANCE - BILLS 1985 - 1986 2348

HB 135 - HB 140 2348

**HOUSE  
COMMITTEE REPORT**

(11)

Date referred: 4/1/86

FURTHER REFERRALS:

DATE: \_\_\_\_\_

The FINANCE Committee has considered HB 135

"An Act establishing a Small Business Development Loan Program; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with \_\_\_\_\_  same title
- \_\_\_\_\_  new title

( ) and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_<sup>4/1/86</sup> R \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

HB

SIGNING DO PASS:  
"An Act relating to ."  
\_\_\_\_\_  
\_\_\_\_\_  
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SIGNING OTHER RECOMMENDATIONS:  
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\_\_\_\_\_  
Chairman

COMMITTEE REPORT

4/1

HOUSE

( 5 )

FURTHER: FINANCE

1/28/85

Date: 3/25/86

The Committee on HOUSE SPECIAL COMMITTEE ON STATE LOANS has had HB 135

"An Act establishing a Small Business Development Loan Program; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 135 (Loans)  same title  
 new title
- and recommends do pass
- AND attaches a "Letter of Intent"  <sup>Fisc</sup> New Fiscal Note Sup 103
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING DO PASS

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING OTHER RECOMMENDATIONS:

[Signature] No Rec

[Signature] (NO REC)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]

CHAIRMAN

Cook

Offered: 4/1/86  
Referred: Finance

Original sponsors: Duncan, Sund,  
Herrmann, et al

1 IN THE HOUSE

BY THE HOUSE SPECIAL  
COMMITTEE ON STATE LOANS

2 CS FOR HOUSE BILL NO. 135 (Loans)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Small Business Loan Guarante-  
7 tee Program; and providing for an effective date."

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

9 \* Section 1. AS 44.88 is amended by adding new sections to read:

10 ARTICLE 5. SMALL BUSINESS LOAN GUARANTEE PROGRAM.

11 Sec. 44.88.310. SMALL BUSINESS LOAN GUARANTEE FUND. The small  
12 business loan guarantee fund is established in the authority from  
13 appropriations for the purpose. Subject to requirements of AS 44.88.-  
14 310 - 44.88.380, the authority may use money in the fund to guarantee  
15 loans to small businesses.

16 Sec. 44.88.320. APPLICANT QUALIFICATIONS. (a) To qualify to  
17 apply for a loan guarantee under AS 44.88.310 - 44.88.380 an applicant  
18 must be a single proprietorship, corporation, firm, partnership, or  
19 other association organized in any manner for any business purposes,  
20 other than on a nonprofit basis, with a gross income of \$5,000,000 or  
21 less for its annual reporting period ending immediately before the  
22 date of application for the loan guarantee. The authority may estab-  
23 lish additional applicant qualifications by regulation and these  
24 qualifications may vary depending upon the type of business the appli-  
25 cant is engaged in.

26 (b) To apply for a loan guarantee an applicant must provide an  
27 economic and financial feasibility analysis acceptable to the authori-  
28 ty together with other information required by the authority.

29 Sec. 44.88.330. POWERS OF THE AUTHORITY. The authority may

COMMITTEE COPY

1 (1) designate agents and delegate powers necessary to  
2 implement AS 44.88.310 - 44.88.380;

3 (2) adopt regulations to implement AS 44.88.310 - 44.88.-  
4 380;

5 (3) establish terms and conditions for loan guarantees  
6 subject to the requirements of AS 44.88.310 - 44.88.380;

7 (4) make and execute contracts and other instruments to  
8 implement AS 44.88.310 - 44.88.380;

9 (5) acquire real or personal property by purchase, trans-  
10 fer, or foreclosure when the acquisition is necessary to protect an  
11 interest in the fund; and

12 (6) exercise any other power necessary to implement AS 44.-  
13 88.310 - 44.88.380.

14 Sec. 44.88.340. CONDITIONS OF LOAN GUARANTEES. (a) Subject to  
15 other requirements of this section, the authority may guarantee a loan  
16 under AS 44.88.310 - 44.88.380 if the

17 (1) loan is commercially reasonable, secured by adequate  
18 collateral, and the net cash flow from the borrower provides adequate  
19 coverage for the debt service on the loan;

20 (2) loan is originated with and serviced by a state or  
21 federally chartered financial institution;

22 (3) portion of the loan not guaranteed by the authority is  
23 held by the originating financial institution or another financial  
24 institution approved by the authority;

25 (4) loan is made to a small business with a majority inter-  
26 est held by state residents; and

27 (5) interest rate is no more than 2.5 percent above the  
28 prime rate of the majority of the banks doing business in the state.

29 (b) The authority may provide a guarantee from the fund for up

1 to 90 percent of a loan that does not exceed \$500,000. The ratio of  
2 the guarantee to the outstanding principal of the loan shall remain  
3 the same over the term of the loan.

4 (c) The authority may not guarantee

5 (1) a loan that is used to refinance existing debt;

6 (2) the payment of interest on the guaranteed portion of a  
7 loan;

8 (3) loans to a borrower the guaranteed portion of which  
9 cumulatively exceed \$500,000 in principal outstanding at any time;

10 (4) a loan secured by real property with a repayment term  
11 in excess of 25 years;

12 (5) a loan secured by equipment or other personal property,  
13 other than inventory, with a repayment term in excess of 10 years; or

14 (6) an unsecured loan or loan secured by inventory with a  
15 repayment term in excess of seven years.

16 (d) At the inception of a loan guaranteed under AS 44.88.310 -  
17 44.88.380 the authority shall charge the borrower a fee not to exceed  
18 one percent of the principal amount of the guaranteed portion of the  
19 loan.

20 Sec. 44.88.350. DEFAULT OR FORECLOSURE. (a) Payments received  
21 toward satisfaction of a default on a loan guaranteed under AS 44.88.-  
22 310 - 44.88.380 shall be allocated between the lender and the fund  
23 according to the guaranteed percentage of the loan until the principal  
24 balance has been repaid.

25 (b) The authority shall dispose of property acquired through  
26 default or foreclosure of a loan guaranteed under AS 44.88.310 -  
27 44.88.380. Disposal shall be made in a manner that serves the best  
28 interest of the state, and may include the amortization of payments  
29 over a period of years.

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3 expense account. This account is established as a reserve from fund  
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5           (b) The authority may expend money credited to the foreclosure  
6 expense account when necessary to protect the state's security inter-  
7 est in collateral on loans guaranteed under AS 44.88.310 - 44.88.380  
8 or to defray expenses incurred during a foreclosure proceeding after a  
9 default.

10           Sec. 44.88.380. DEFINITION. In AS 44.88.310 - 44.88.380, "fund"  
11 means the small business loan guarantee fund established under AS 44.-  
12 88.310.

13           \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
14 10.070(c).

*Levy*  
0423

Introduced: 1/23/85  
Referred: House Special Committee  
on State Loans and Finance

BY DUNCAN, SUND AND  
HERRMANN BY DUNCAN

1 IN THE HOUSE

2 HOUSE BILL NO. 135

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a Small Business Development  
7 Loan program; and providing for an effective date."

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

9 \* Section 1. AS 45.95.020 is repealed and reenacted to read:

10 Sec. 45.95.020. SMALL BUSINESS DEVELOPMENT LOANS. (a) The  
11 commissioner shall adopt regulations and policies to make small busi-  
12 ness development loans or to purchase small business development loans  
13 from a bank or other financial institution in the state. A small  
14 business development loan made under this chapter may not exceed  
15 \$100,000 and shall be for the purpose of acquiring, operating, or  
16 equipping a business, other than a farming, mining, or fishing busi-  
17 ness. A small business development loan shall be secured by accept-  
18 able collateral and may not exceed 80 percent of the fair market value  
19 of the collateral offered as security. The initial rate of interest  
20 on a small business development loan is equal to the federal discount  
21 rate in effect on the first day of the month preceding the month of  
22 closing the loan plus three percentage points. The interest rate  
23 shall be adjusted annually to be three percentage points more than the  
24 federal discount rate in effect on the first day of the month preced-  
25 ing the month of the anniversary date of the loan.

26 (b) Money loaned shall be delivered to the borrower as provided  
27 by regulations adopted by the commissioner. Upon repayment of loans  
28 by installments, or otherwise, in accordance with the prescribed  
29 terms, or upon liquidation by foreclosure or other process, or upon

1 receipt of interest or other revenue, the money so received shall be  
2 turned over to the commissioner of revenue for deposit in the small  
3 business development revolving loan fund.

4 (c) The commissioner may not disqualify an applicant for, or  
5 prejudice an applicant's privilege to receive, a loan for a purpose  
6 authorized under this section because the applicant has previously  
7 received a loan under this chapter, but the total principal amount  
8 outstanding to a borrower on loans made under this chapter may not  
9 exceed \$150,000.

10 \* Sec. 2. AS 45.95.050 is amended to read:

11 Sec. 45.95.050. POWER OF COMMISSIONER TO ASSIGN AND SELL MORT-  
12 GAGES. The commissioner may assign and sell small business develop-  
13 ment loan mortgages to the Alaska permanent fund, the Department of  
14 Revenue, the Alaska Industrial Development Authority, or to a bank or  
15 other private purchaser [STATE MORTGAGE ASSOCIATION] in consideration  
16 of receiving [ITS] cash, bonds, debentures and notes upon conditions  
17 which the commissioner [HE] considers advantageous to the state small  
18 business development lending program.

19 \* Sec. 3. AS 45.95.060 is amended to read:

20 Sec. 45.95.060. ESTABLISHMENT [CREATION] OF FUND. The [THERE IS  
21 CREATED THE] small business development revolving loan fund is estab-  
22 lished in the Department of Commerce and Economic Development to carry  
23 out the purposes of this chapter. This fund may not [SHALL] be used  
24 for any [NO] other purpose.

25 \* Sec. 4. AS 45.95.070 is amended to read:

26 Sec. 45.95.070. ELIGIBILITY FOR LOANS. A small business [PER-  
27 SON] is eligible for a loan under this chapter if

28 (1) it [HE] can establish or demonstrate [GOOD CHARACTER,]  
29 capacity for financial responsibility and an [,] ability to provide

1 sufficient collateral [AND KNOWLEDGE OF ALASKA ECONOMIC CONDITIONS];  
2 and

3 (2) [HE IS A RESIDENT OF THE STATE; AND

4 (3)] in the judgment of the commissioner [DEPARTMENT OF  
5 COMMERCE AND ECONOMIC DEVELOPMENT]

6 (A) the business shows a definite potential for  
7 growth;

8 (B) the borrower will be able to repay the loan; and

9 (C) the loan has the potential to [WILL POTENTIALLY]  
10 create more jobs and provide additional services in the commu-  
11 nity.

12 \* Sec. 5. AS 45.95.080 is amended to read:

13 Sec. 45.95.080. DEFINITIONS. In this chapter,

14 (1) "commissioner" means the commissioner of commerce and  
15 economic development;

16 (2) "small business" means a sole proprietorship, partner-  
17 ship, or corporation operating only in the state that is not a subsid-  
18 iary of another business and that does not employ more than 10 em-  
19 ployees.

20 \* Sec. 6. Section 71(2), ch. 106, SLA 1980 is amended to read:

21 (2) no further loans may be made under AS 45.90.020  
22 [,AS 45.95.020,] and AS 26.15.040(3).

23 \* Sec. 7. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).

*Oil*  
*4/21/86*

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

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

**REQUEST** Page 1 of 2  
 Bill/Resolution No.: HB 135  
 Title: An Act establishing the small business loan guarantee program  
 Sponsor: Sund, Taylor & Grussendorf  
 Requester: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**  
 Agency Affected: Dept. of Comm. & Econ. Dev.  
 BRU: Alaska Industrial Development Auth.  
 Components: \_\_\_\_\_

**EXPENDITURES / REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		122.3	128.4	134.8	141.5	148.6
TRAVEL		10.0	10.0	10.0	12.0	12.0
CONTRACTUAL		50.0	25.0	25.0	25.0	25.0
SUPPLIES		5.0	5.0	6.0	6.0	6.0
EQUIPMENT		15.0	5.0	5.0	5.0	5.0
LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS		-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS		-0-	-0-	-0-	-0-	-0-
<b>TOTAL OPERATING</b>		<b>202.3</b>	<b>173.4</b>	<b>180.8</b>	<b>189.5</b>	<b>196.6</b>

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER		202.3	173.4	180.8	189.5	196.6
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary.

Prepared by: Bert L. Wagon, Executive Director  
 Division: Alaska Industrial Development Authority

Phone: 274-1651  
 Date: February 21, 1986

Approved by Commissioner: \_\_\_\_\_  
 Agency: Commerce and Economic Development

Date: February 21, 1986

Distribution (by Agency preparing fiscal note):

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 135 Page 2 of 2

## DETAIL

Travel: Mostly in-State to meet with bankers, establish program and explain its operation. Majority of trips would be to Fairbanks and Juneau with occasional elsewhere.

Contractual: Primarily for legal expenses to establish program. Drafting guaranty agreement and other legal documents.

Supplies: Ordinary and general such as paper, forms, postage, telephone, etc.

Equipment: Desks, chairs, calculators, etc.

<u>Personnel:</u>	Position	Salaried Benefits
	1 Range 18	\$ 49,097
	1 Range 16	43,001
	1 Range 10	<u>30,192</u>
	TOTAL	<u>\$122,290</u>

3593W22186a

ALASKA STATE LEGISLATURE

14th..... Legislature FIRST.... Session

HOUSE ..BILL..... NO. 135..

By DUNCAN, SUND, HERMANN.....

"An Act establishing a Small Business Development Loan Program; and providing for an effective date."

Small Business Dev. Loan Pro.

Introduced in the House .1/28...., 1985.

HISTORY IN THE HOUSE

19 85	Read first time and referred to Committee on																						
Jan. 28	SPEC. LOANS AND FINANCE																						
	Reported back with recommendation that																						
	Read second time and																						
	Read third time and																						
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> <tr> <td colspan="2">Reconsideration</td> </tr> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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Excused	Excused																						
	Reported correctly engrossed																						
	Signed by Speaker																						
	Sent to Senate																						
CHIEF CLERK OF THE HOUSE																							

HISTORY IN THE SENATE

19	Read first time and referred to Committee on																						
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	Returned to House																						
SECRETARY OF THE SENATE																							

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor  ..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

Offered: 4/1/86  
Referred: Finance

Original sponsors: Duncan, Sund,  
Herrmann, et al

1 IN THE HOUSE

BY THE HOUSE SPECIAL  
COMMITTEE ON STATE LOANS

2

CS FOR HOUSE BILL NO. 135 (Loans)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act establishing the Small Business Loan Guar-  
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7 Loan program; and providing for an effective date."

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

9 \* Section 1. AS 45.95.020 is repealed and reenacted to read:

10 Sec. 45.95.020. SMALL BUSINESS DEVELOPMENT LOANS. (a) The  
11 commissioner shall adopt regulations and policies to make small busi-  
12 ness development loans or to purchase small business development loans  
13 from a bank or other financial institution in the state. A small  
14 business development loan made under this chapter may not exceed  
15 \$100,000 and shall be for the purpose of acquiring, operating, or  
16 equipping a business, other than a farming, mining, or fishing busi-  
17 ness. A small business development loan shall be secured by accept-  
18 able collateral and may not exceed 80 percent of the fair market value  
19 of the collateral offered as security. The initial rate of interest  
20 on a small business development loan is equal to the federal discount  
21 rate in effect on the first day of the month preceding the month of  
22 closing the loan plus three percentage points. The interest rate  
23 shall be adjusted annually to be three percentage points more than the  
24 federal discount rate in effect on the first day of the month preced-  
25 ing the month of the anniversary date of the loan.

26 (b) Money loaned shall be delivered to the borrower as provided  
27 by regulations adopted by the commissioner. Upon repayment of loans  
28 by installments, or otherwise, in accordance with the prescribed  
29 terms, or upon liquidation by foreclosure or other process, or upon

1 receipt of interest or other revenue, the money so received shall be  
2 turned over to the commissioner of revenue for deposit in the small  
3 business development revolving loan fund.

4 (c) The commissioner may not disqualify an applicant for, or  
5 prejudice an applicant's privilege to receive, a loan for a purpose  
6 authorized under this section because the applicant has previously  
7 received a loan under this chapter, but the total principal amount  
8 outstanding to a borrower on loans made under this chapter may not  
9 exceed \$150,000.

10 \* Sec. 2. AS 45.95.050 is amended to read:

11 Sec. 45.95.050. POWER OF COMMISSIONER TO ASSIGN AND SELL MORT-  
12 GAGES. The commissioner may assign and sell small business develop-  
13 ment loan mortgages to the Alaska permanent fund, the Department of  
14 Revenue, the Alaska Industrial Development Authority, or to a bank or  
15 other private purchaser [STATE MORTGAGE ASSOCIATION] in consideration  
16 of receiving [ITS] cash, bonds, debentures and notes upon conditions  
17 which the commissioner [HE] considers advantageous to the state small  
18 business development lending program.

19 \* Sec. 3. AS 45.95.060 is amended to read:

20 Sec. 45.95.060. ESTABLISHMENT [CREATION] OF FUND. The [THERE IS  
21 CREATED THE] small business development revolving loan fund is estab-  
22 lished in the Department of Commerce and Economic Development to carry  
23 out the purposes of this chapter. This fund may not [SHALL] be used  
24 for any [NO] other purpose.

25 \* Sec. 4. AS 45.95.070 is amended to read:

26 Sec. 45.95.070. ELIGIBILITY FOR LOANS. A small business [PER-  
27 SON] is eligible for a loan under this chapter if

28 (1) it [HE] can establish or demonstrate [GOOD CHARACTER,]  
29 capacity for financial responsibility and an [,] ability to provide

1 sufficient collateral [AND KNOWLEDGE OF ALASKA ECONOMIC CONDITIONS];  
2 and

3 (2) [HE IS A RESIDENT OF THE STATE; AND

4 (3)] in the judgment of the commissioner [DEPARTMENT OF  
5 COMMERCE AND ECONOMIC DEVELOPMENT]

6 (A) the business shows a definite potential for  
7 growth;

8 (B) the borrower will be able to repay the loan; and

9 (C) the loan has the potential to [WILL POTENTIALLY]  
10 create more jobs and provide additional services in the commu-  
11 nity.

12 \* Sec. 5. AS 45.95.080 is amended to read:

13 Sec. 45.95.080. DEFINITIONS. In this chapter,

14 (1) "commissioner" means the commissioner of commerce and  
15 economic development;

16 (2) "small business" means a sole proprietorship, partner-  
17 ship, or corporation operating only in the state that is not a subsid-  
18 iary of another business and that does not employ more than 10 em-  
19 ployees.

20 \* Sec. 6. Section 71(2), ch. 106, SLA 1980 is amended to read:

21 (2) no further loans may be made under AS 45.90.020  
22 [,AS 45.95.020,] and AS 26.15.040(3).

23 \* Sec. 7. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).



COMMITTEE REPORT  
HOUSE

4/11

( 7 )

FURTHER: FINANCE

1/28/85

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

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 139

"An Act relating to the administration of certain grants passed by the legislature; and providing for an effective date."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 139 (C+RA) [✓] same title  
[ ] new title  
and recommends \_\_\_\_\_

[✓] 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

Goll Peter Joe

Wallis

Koponen

Phillips

Gruenberg

Furnace

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

F. Key Wallis Do Not Pass

W. Koponen no rec

Roll & Bell Do Pass if amended

M. Gruenberg No rec.

W. Furnace Kuller/Wonder do not pass with amendments

Peter Joe  
CHAIRMAN

Offered: 4/11/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 139 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the administration of certain  
7 grants passed by the legislature; and providing for  
8 an effective date."

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

10 \* Section 1. AS 37.05.316 is amended to read:

11 Sec. 37.05.316. GRANTS TO NAMED RECIPIENTS. When an amount is  
12 appropriated or allocated to a department as a grant for a named  
13 recipient that [WHICH] is not a municipality, the department to which  
14 the appropriation or allocation is made shall promptly notify the  
15 named recipient of the availability of the grant and request the named  
16 recipient to submit a proposal to provide the goods or services speci-  
17 fied in the appropriation act [, OR BOTH,] for which the appropriation  
18 or allocation is made. At the same time, the department may issue a  
19 request for proposals from other qualified persons to provide the same  
20 goods or services [, OR BOTH,] in the same area. The department shall  
21 award the grant to [CONTRACT WITH] the named recipient unless the  
22 Office of the Governor, with due regard for the [ANY] local expertise  
23 or experience of [AMONG] those making proposals, determines that an  
24 award [OF THE CONTRACT] to a different party would better serve the  
25 public interest. If the grant [CONTRACT] is awarded to a [ANOTHER]  
26 party other than that named by the legislature, the basis of that  
27 action shall be stated in writing at the time the grant is issued and  
28 a copy of the written statement shall be sent to the Legislative  
29 Budget and Audit Committee. A grant agreement must [CONTRACT SHALL]

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be executed within 60 days after the effective date of the appropriation or allocation. [THE PURCHASE OF THE GOODS OR SERVICES, OR BOTH, SHALL BE IN ACCORDANCE WITH AS 37.05.230(1)(B).]

\* Sec. 2. AS 37.05.318 is repealed and reenacted to read:

Sec. 37.05.318. REGULATIONS. The commissioner of administration shall adopt regulations to implement the provisions of AS 37.05.315 - 37.05.316. The commissioner of community and regional affairs shall adopt regulations to implement the provisions of AS 37.05.317. These regulations must include provisions that establish procedures for the safekeeping and investment of grant money, the management and disposition of property acquired by grant money, and the post audit of grant transactions. An audit required by these regulations is a cost of the grant. The regulations adopted under this section may not interfere with the implementation of the grant, but shall be designed to prevent the mismanagement of the grant and the misuse of grant funds.

\* Sec. 3. This Act takes effect July 1, 1985.

1035h

Introduced: 1/28/85  
Referred: Community & Regional  
Affairs and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 139

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL,

6 For an Act entitled: "An Act relating to the administration of certain  
7 grants passed by the legislature; and providing for  
8 an effective date."

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

10 \* Section 1. AS 37.05.316 is amended to read:

11 Sec. 37.05.316. GRANTS TO NAMED RECIPIENTS. When an amount is  
12 appropriated or allocated to a department as a grant for a named  
13 recipient which is not a municipality, the department to which the  
14 appropriation or allocation is made shall promptly notify the named  
15 recipient of the availability of the grant and request the named  
16 recipient to submit a proposal to provide the goods or services speci-  
17 fied in the appropriation Act [ACT, OR BOTH], for which the appropria-  
18 tion or allocation is made. At the same time, the department may  
19 issue a request for proposals from other qualified persons to provide  
20 the same goods or services[, OR BOTH,] in the same area. The depart-  
21 ment shall award the grant to [CONTRACT WITH] the named recipient  
22 unless the Office of the Governor, with due regard for any local  
23 expertise or experience among those making proposals, determines that  
24 an award [OF THE CONTRACT] to a different party would better serve the  
25 public interest. If the grant [CONTRACT] is awarded to another party  
26 than that named by the legislature, the basis of that action must  
27 [SHALL] be stated in writing at the time the grant is issued and a  
28 copy of the written statement must [SHALL] be sent to the Legislative  
29 Budget and Audit Committee. A grant agreement must [CONTRACT SHALL]

COMMITTEE COPY

1 be executed within 60 days after the effective date of the appropria-  
2 tion or allocation. [THE PURCHASE OF THE GOODS OR SERVICES, OR BOTH,  
3 SHALL BE IN ACCORDANCE WITH AS 37.05.230(1)(B).]

4 \* Sec. 2. AS 37.05.318 is repealed and reenacted to read:

5 Sec. 37.05.318. REGULATIONS. The commissioner of administration  
6 shall adopt regulations to implement the provisions of AS 37.05.315 --  
7 37.05.317. These regulations must include provisions that establish  
8 procedures for safekeeping and investment of grant money, management  
9 and disposition of property acquired by grant money, and post audit of  
10 grant transactions.

11 \* Sec. 3. This Act takes effect July 1, 1985.  
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STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

*5289*

Revision Date: \_\_\_\_\_ Page 1 of 1

**REQUEST**  
 Bill/Resolution No.: HB 139  
 Title: An Act Relating to the  
Administration of Certain Grants  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**  
 Agency Affected: Administration  
 Program Category Affected: \_\_\_\_\_  
General Government  
 BRU, Program or Subprogram(s) Affected:  
General Services & Supply

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

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

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

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary) This Bill recognizes that a grant is more often akin to a unilateral contract (in that there is no specific performance on the State's part other than the provision of funding) than it is to a bilateral contract (where there is an exchange of promises with specific performance on the part of both parties). This bill further recognizes that the difference warrants a separate set of procedures under which the grant will be expended.

Prepared By: Robert J. Link *Robert J. Link* Phone: 465-2250  
 Division: General Services & Supply V Date: December 27, 1984

Approved by Commissioner: Lisa Rudd *Lisa Rudd* Date: 1/11/85  
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB 139

January 28, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

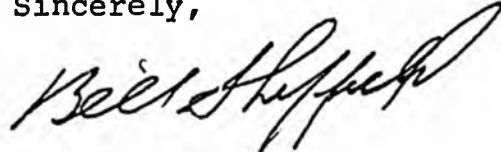
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the administration of certain grants passed by the legislature.

The bill was requested by the Department of Administration to provide specific authority to establish a separate method of administering certain grants to municipalities under AS 37.05.315, named recipients under AS 37.05.316, and to unincorporated communities under AS 37.05.317. Under current procedures, all grants are administered by the Department of Administration in the same manner as professional services contracts. The nature of a grant is more often akin to a unilateral contract than a bilateral contract. This difference warrants the adoption of a body of administrative law that sets out the ground rules under which the grants will be expended. Certainly, this distinction between a grant and a contract can only be implemented if the department has the power to provide for adequate safeguards to assure that grantees and the state operate in the public interest.

This bill reverses the provisions of AS 37.05.318, to permit the creation of safeguards through the adoption of administrative regulations. Under existing law, the adoption of regulations to interpret and make specific the grant statutes is prohibited. I know that many members of the legislature are becoming increasingly alarmed at the

lack of responsiveness of grantees to expeditiously accomplish the intent of the legislature. This bill offers an opportunity for a change that will result in the speedy accomplishment of legislatively assigned purposes of grant appropriations.

Sincerely,

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

Bill Sheffield  
Governor



# Alaska State Legislature

## House of Representatives

### Committee on Community & Regional Affairs

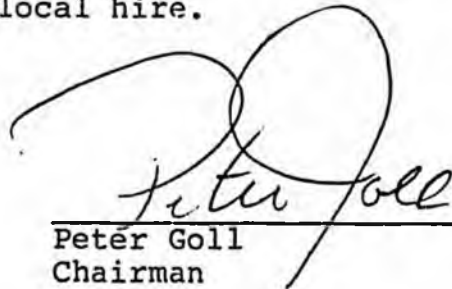
Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4833

LETTER OF INTENT  
for  
CSHB 139 (CR&A)

The House Committee on Community and Regional Affairs has considered House Bill 139 at length.

During committee discussion the following areas were considered appropriate for the focus of regulation.

1. Establishment of adequate accounting procedures to ensure proper documentation of financial activity;
2. Provision of an annual status report on ongoing projects;
3. Project completion within 7 years, with funds lapsing after that time subject to reappropriation;
4. Compliance with local and state laws required;
5. Prohibition of discrimination in hiring by contractors including all constitutional protections plus prohibition of discrimination based upon political affiliation or opinions;
6. Funds to be deposited in a federally insured interest bearing account or federally insured instrument;
7. Audit requirements; and
8. Encouragement of local hire.

  
Peter Goll  
Chairman

**COMMITTEE COPY.**

<b>ALASKA STATE LEGISLATURE</b>
14th.... Legislature <b>FIRST...</b> Session
HOUSE BILL..... NO. <b>139...</b>
By ... <b>THE RULES COMMITTEE BY...</b> REQUEST OF THE GOVERNOR
"An Act relating to the administration of certain grants passed by the legislature; and providing for an effective date."
<b>Admin. of certain grants</b>
Introduced in the House ... <b>1/28...</b> , 1985.

HISTORY IN THE HOUSE																													
19 85	Read first time and referred to Committee on																												
Jan. 28	<b>C&amp;RA AND FINANCE</b>																												
	Reported back with recommendation that																												
	Read second time and																												
	Read third time and																												
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CHIEF CLERK OF THE HOUSE																													

HISTORY IN THE SENATE																													
19	Read first time and referred to Committee on																												
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SECRETARY OF THE SENATE																													

HISTORY IN THE HOUSE	
19	Received from Senate
	Concurred in Senate amendment thus adopting: <b>VOTE</b>
	Failed to concur in Senate amendment; asked Senate to recede <b>VOTE</b>
	Senate receded from amendment <b>VOTE</b>
	Senate failed to recede from amendment <b>VOTE</b>
	CC appointed by House
	CC appointed by Senate
	CC adopted by House <b>VOTE</b>
	CC adopted by Senate <b>VOTE</b>
	To enrolling Reported correctly enrolled Sent to Governor
	..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

**COMMITTEE COPY**

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

103  
HB 139

Revision Date: \_\_\_\_\_ Page 1 of 1

**REQUEST**  
 Bill/Resolution No.: CSUBB39(GRA)  
 Title: An Act Relating to the Administration of Certain Grants  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**  
 Agency Affected: Administration  
 Program Category Affected: General Government  
 BRU, Program or Subprogram(s) Affected: General Services & Supply

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

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

POSITIONS: 0 0 0 0 0 0

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary) This Bill recognizes that a grant is more often akin to a unilateral contract (in that there is no specific performance on the State's part other than the provision of funding) than it is to a bilateral contract (where there is an exchange of promises with specific performance on the part of both parties). This bill further recognizes that the difference warrants a separate set of procedures under which the grant will be expended.

Prepared By: Robert J. Link *Robert J. Link* Phone: 465-2250  
 Division: General Services & Supply Date: December 27, 1984

Approved by Commissioner: Lisa Rudd *Lisa Rudd* Date: 1/11/85  
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

HB 139



# Alaska State Legislature

## House of Representatives

Committee on  
Community & Regional Affairs

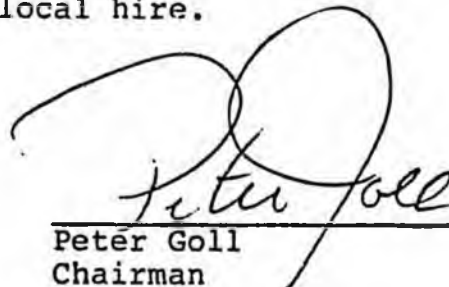
Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4833

LETTER OF INTENT  
for  
CSHB 139 (CR&A)

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7. Audit requirements; and
8. Encouragement of local hire.

  
Peter Goll  
Chairman

L SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

NA 139

January 28, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the administration of certain grants passed by the legislature.

The bill was requested by the Department of Administration to provide specific authority to establish a separate method of administering certain grants to municipalities under AS 37.05.315, named recipients under AS 37.05.316, and to unincorporated communities under AS 37.05.317. Under current procedures, all grants are administered by the Department of Administration in the same manner as professional services contracts. The nature of a grant is more often akin to a unilateral contract than a bilateral contract. This difference warrants the adoption of a body of administrative law that sets out the ground rules under which the grants will be expended. Certainly, this distinction between a grant and a contract can only be implemented if the department has the power to provide for adequate safeguards to assure that grantees and the state operate in the public interest.

This bill reverses the provisions of AS 37.05.318, to permit the creation of safeguards through the adoption of administrative regulations. Under existing law, the adoption of regulations to interpret and make specific the grant statutes is prohibited. I know that many members of the legislature are becoming increasingly alarmed at the

lack of responsiveness of grantees to expeditiously accomplish the intent of the legislature. This bill offers an opportunity for a change that will result in the speedy accomplishment of legislatively assigned purposes of grant appropriations.

Sincerely,

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

Bill Sheffield  
Governor

BILL SHEFFIELD, GOVERNOR

**OFFICE OF THE GOVERNOR**

POUCH AU  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3568

OFFICE OF MANAGEMENT AND BUDGET  
DIVISION OF MANAGEMENT

April 8, 1985

TO ALL INTERESTED PARTIES:

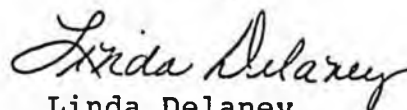
Enclosed is a Notice of Public Hearing and a Proposed Regulation to implement an audit process that would allow one audit to cover all State monies received by an entity. Also enclosed is an explanation of the single audit and the anticipated impact on the entities and State agencies involved.

The single audit concept is in response to directives issued by Governor Sheffield in February, 1984, to coordinate and improve various processes used by the State to administer grant programs. The directives from the Governor were based on recommendations from the Human Service Provider Meetings conducted throughout the State and recommendations from many local communities.

A State agency committee composed of the Departments of Administration, Community and Regional Affairs, Education, Environmental Conservation, Health and Social Services, Public Safety, Transportation and Public Facilities, and the Office of Management and Budget have worked for the past year to meet Governor Sheffield's directives and develop methods to meet the concerns expressed by grantees.

The regulation will be adopted under the authority of the Department of Administration and will cover all financial assistance awarded by the State, regardless of which State agency negotiated the award agreement. I have acted as facilitator for the agency committee and will be available to answer questions at the Office of Management and Budget, Pouch AM, Juneau, AK 99811 (phone 465-3568) or at the public hearing.

Sincerely,



Linda Delaney  
Project Manager

enclosures

NOTICE OF PROPOSED CHANGES IN THE  
REGULATIONS OF THE DEPARTMENT OF ADMINISTRATION

Notice is hereby given that the Department of Administration, under the authority vested by AS 37.05.020 and AS 37.05.030, proposes to adopt regulations in Title 2 of the Alaska Administrative Code dealing with Grant Administration to implement the powers of the Department to safeguard and account for State money as follows:

Each entity that receives financial assistance from the State does so on the condition that the expenditures of the entity remain subject to audit. Each entity that is awarded more than \$300,000 in financial assistance during a fiscal year must prepare and submit to each grantor agency an annual single financial and compliance audit of all financial assistance awarded by the State. Each entity that is awarded at least \$100,000 but not more than \$300,000 in financial assistance during a fiscal year must prepare and submit at least a biennial single financial and compliance audit of all assistance awarded by the state. The audit may be requested annually by either the recipient party or the state.

Audits will be conducted by an independent auditor according to Standards for Audit of Governmental Organizations, Programs, Activities and Functions, 1981 revision adopted by the Comptroller General of the United States, compliance standards approved by a designated agent of the State of Alaska, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the proposed action at hearings to be held:

Fairbanks, Noel Wien Public Library Auditorium, 1215 Cowles Street, 2 p.m., Monday,  
May 6, 1985.

Anchorage, Anchorage Public Schools Administration Building, School Board Meeting Room,  
4600 DeBarr Road, 2 p.m., Tuesday, May 7, 1985.

Juneau, Centennial Hall, Hammond Room, 101 Egan Drive, Thursday, May 9, 1985.

Statewide Teleconference, all Legislative Teleconference Centers, 2 p.m., Friday,  
May 10, 1985.

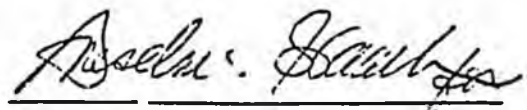
Written statements or arguments may also be sent to the Office of Management and Budget, Attn: Linda Delaney, Pouch AM, Juneau, AK 99811, to be received by the close of business on Tuesday, May 14, 1985.

This action is not expected to require an increased appropriation.

Copies of the proposed regulations may be obtained by writing to the Office of Management and Budget at the address listed above.

The Department of Administration, upon its own motion or at the instance of any interested person, may at the hearing or after them, adopt proposals within the scope of this notice without further notice or may decide to take no action.

DATE: 4-8-85



Lisa Rudd, Commissioner  
Department of Administration  
State of Alaska

## CHAPTER 45. GRANT ADMINISTRATION.

02 AAC 45.010. AUDIT REQUIREMENTS. (a) Each entity that receives financial assistance from the state does so on the condition that the expenditures of the entity remains subject to audit. Each entity that is awarded more than \$300,000 in financial assistance during a fiscal year must prepare and submit to each grantor agency an annual single financial and compliance audit of all financial assistance awarded by the state. Each entity that is awarded at least \$100,000 but not more than \$300,000 in financial assistance during a fiscal year must prepare and submit at least a biennial single financial and compliance audit of all assistance awarded by the state. The audit may be requested annually by either the recipient party or the state.

(b) An audit required by this section shall be conducted by an independent auditor and must be conducted according to the following audit standards:

- (1) Standards for Audit of Governmental Organizations, Programs, Activities and Functions, 1981 revision adopted by the comptroller general of the United States;
- (2) compliance standards approved by a designated agent of the State of Alaska; and
- (3) generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(c) An audit must examine and prepare and report concerning the systems of internal control, systems established to ensure compliance with laws and regulations affecting the expenditure of state money, financial transactions and accounts, and an opinion on financial statements. The examination must determine if:

- (1) there is effective control over, and proper accounting for, revenues, expenditures, assets, and liabilities;
- (2) the financial statement is presented fairly in accordance with generally accepted accounting principles;
- (3) the financial statement contains reliable financial data and is presented in accordance with the applicable agreements made with the state; and

(4) management is using its resources economically and efficiently.

(d) An audit required by this section need not evaluate the performance of the grant program. A program evaluation may be conducted or requested by the state agency who agreed to finance the grant program.

(e) All state agencies who provide financial assistance to an entity must receive the audit in satisfaction of any audit required by law or regulation if the audit meets the standards imposed by this section. If an additional audit is necessary to meet the needs of a state agency, the audit work shall be based on the audit required by this section and be paid for by the state agency. Audit exceptions noted during an audit required by this section will be resolved by agreement between the entity and the grantor state agency.

(f) For the purposes of this section, "financial assistance" means grants, contracts, provider agreements, cooperative agreements, and all forms of financial assistance to a third party or to a local government including assistance provided by the state to a third party through a local government. "Financial assistance" does not include direct payments to individuals in need of public assistance or the purchase of goods or services for the direct benefit of government. (Eff.

/ / , 85, Register )

Authority: AS 37.05.020  
AS 37.05.030

Auditing of Financial Assistance  
Awarded by the State of Alaska

Summary

Beginning with FY 86 (July 1, 1985), all entities which receive financial assistance from the State for the provision of services to the public will be subject to a single audit. The single audit concept means that entities which receive financial assistance including grant/contract money will be subject to one audit that covers all recipient financial records during the time period covered by the audit. All State agencies which have acted as the grantor/ contractor during the specified time period will be represented in the audit and will receive the audit report.

This procedure is in response to requests from grantees to eliminate the duplicative effort and overlap in audits performed by various State and federal agencies. Such a system will also provide a more comprehensive accounting and monitoring of state monies issued as grants and contracts and other types of financial assistance.

Audits will be performed by independent auditors hired by the entity. Financial and compliance guidelines will be issued by the State to ensure the quality and scope of the audits. These guidelines are not yet completed but will conform to Standards For Audit of Governmental Organizations, Programs, Activities, and Functions, issued by the Comptroller General of the United States. The State requirements will take into account the needs of the various State agencies.

The single audit process will not limit the authority of the agencies to perform audits or other reviews of recipient entities. However, if audits arranged for by the entities meet the requirements of the State standards, all State agencies will accept that audit. If any additional financial and compliance audit work is required, it should build upon the work already completed by the single audit process.

Following is an explanation of the single audit concept, the anticipated impact on State agencies and grantees/contractors, and an outline of the implementation of the audit process.

Single Audit

A single audit means that all entities awarded State monies will be required to have those grants/contracts and other types of financial assistance awards audited when the total of the awards reaches a specified dollar amount within a given fiscal year. One audit, arranged by the entity, will cover a representative sample of all State dollars awarded and will be conducted under audit guidelines established by the State.

Beginning with FY 86 awards, all entities awarded \$300,000 or more in State financial assistance to provide a service to the public will be subject to annual audit. All entities awarded \$100,000 to \$3000,000 will be subject to audit on at least a biennial basis. The Grant Information Data System will be operational by July 1, 1985, and will allow easy identification of entities who meet the award limits.

This process is modeled after the federal single audit process, commonly called the "Attachment P" audit. The federal government has implemented this type of process through federal Office of Management and Budget Circular 101, Attachment P, for the past four years. The process became law in late 1984.

#### Scope of Audit

The audits should determine whether the financial statements of the entity present fairly the financial position and the results of financial operations in accordance with generally accepted accounting principles. The audit will also determine whether the entity has complied with laws and regulations that may have a material effect on the financial statements.

The audit should consider whether the entity is managing and utilizing its resources economically and efficiently, the causes of inefficiencies or uneconomical practices, and whether the entity has complied with laws and regulations concerning matters of economy and efficiency.

Analyzing program results achieved through the use of State and other funds and determining whether the desired results or benefits established by the legislature are being achieved will be the responsibility of the State agency issuing the financial assistance, and will not be a required part of the audit scope.

#### Impact on Entities Receiving Financial Assistance

Under the current system, entities may be subject to audit for each individual grant/contract or other type of financial assistance awarded. The single audit process should have a very positive effect both in dollars saved and administrative time spent preparing for an audit.

Many entities which receive monies from the State are already subject to the federal single audit requirements because they receive federal funds. The State audit procedures will be designed to merge with federal procedures so entities will be able to meet all requirements with a single audit activity.

Entities will obtain their own audit services so they would be able to merge any of their own audit needs with State and federal requirements. It is difficult to determine at this time

the exact impact the single audit process will have on grant/contract budgets. Audits are normally an allowable cost of grant/contract budgets and have been included in previous budgets, even though the State has not received a copy of the audits. Audit firms currently performing the federal single audits have estimated the addition of State financial/compliance requirements will increase the total audit cost by ten to twenty percent the first year and five to ten percent in future years. Many of the entities already have a yearly audit performed for their own purposes so any increase in cost should be negligible.

#### Impact on State Agencies

The single audit process should increase the amount of information available to State agencies regarding the use of funds distributed. Current audit coverage is limited due to the availability of State personnel to perform audits. This system should increase the audit coverage of State monies distributed by approximately 80 percent.

All program audit/evaluation responsibilities will remain with the State agencies. Resolution of audit exceptions will also remain the responsibility of the agency which negotiated the agreement covering the exception.

The single audit process does not prevent other auditors from performing financial and compliance audit work. However, any such efforts should be based on exceptional need and should build on the work performed in the single audit. The cost of additional audit work is the responsibility of the agency requesting or performing the work.

#### Implementation of a Single Audit

In order to initiate a single audit process, a centralized implementation process will be designed by the State. Initially, the Office of Management and Budget will serve as the representative of the appropriate agencies. At a federal level, this is referred to as cognizant agency responsibility.

The key responsibilities of this oversight role will include:

- ° Coordinating with State agencies to ensure the audit needs of each are addressed in the scope of work to be performed.
- ° Notifying entities of the need for audit, audit requirements, and time table for submission of audits.
- ° Acting as a liaison between agencies and the entities and the auditor.
- ° Acting as a liaison between the State agencies involved

and the federal cognizant agency.

- Providing technical advice and assistance to the entity and the auditor.
- Reviewing submitted audit reports and distributing such audit reports to State agencies.
- Performing quality control reviews of audits to assure that State standards are being met.

The single audit will apply to all FY 86 financial assistance awards, meaning all monies issued after July 1, 1985. No audits will actually take place under this process until after June 30, 1986; however, State agencies may wish to make use of the guidelines with any audits performed in the interim.

#### Illustration

Illustration I shows the steps necessary to initiate the audit process. Compliance requirements that are program specific will need to be supplied by the State agencies. Any such requirements will be part of the original agreement signed by the State and the entity receiving the funds.

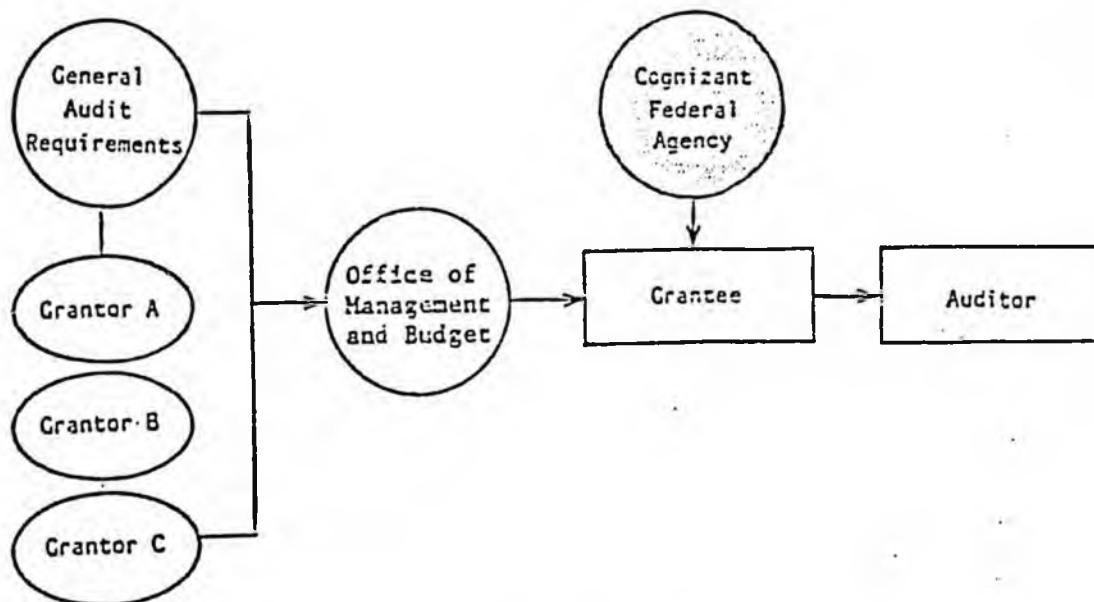


ILLUSTRATION I

Illustration II shows the process for distributing the audit results to State grantor/contractor agencies. Any audit exceptions should be resolved between the entity and the State agency issuing the grant/contract.

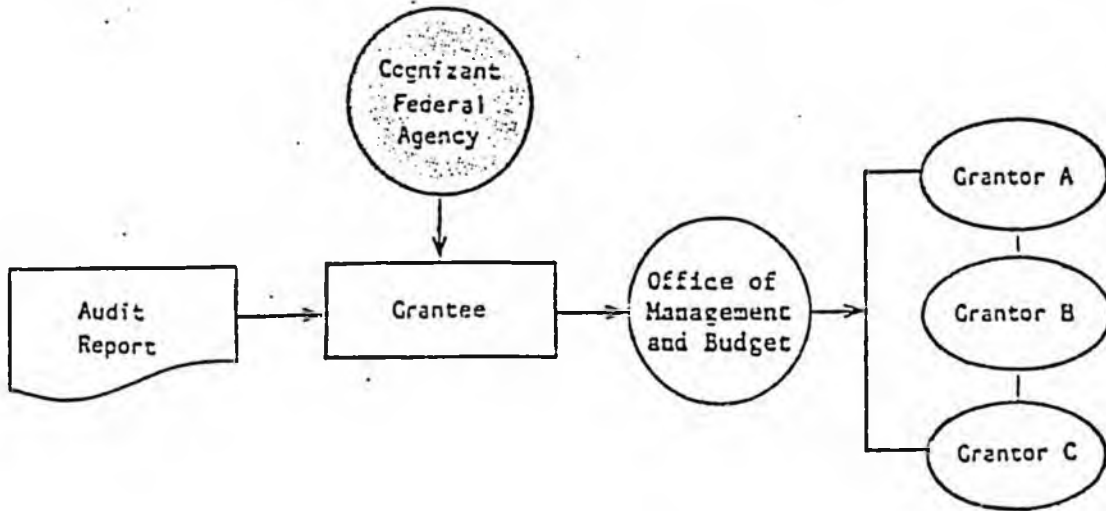


ILLUSTRATION II

**Sec. 37.05.300. Interpretation of chapter.** This chapter shall be construed as supplemental to all other state laws not in conflict with it. If a section or part of a section of this chapter is in conflict with federal requirements for a program for which federal grant-in-aid funds are available, the section or part to the extent of the conflict is inoperative. (§ 1 art VI ch 82 SLA 1955; am § 18 ch 186 SLA 1957)

**Editor's notes.** — For applicability of the chapter to the University of Alaska, see notes following chapter heading.

**Sec. 37.05.305. Applicability to University of Alaska.** The commissioner of administration may delegate the performance of the functions under this chapter as they relate to the university to the Board of Regents of the University of Alaska and set out the criteria and guidelines which shall be followed. The commissioner shall direct necessary stipulations and exercise monitoring responsibility for conformance through the Board of Regents of the University of Alaska. (§ 5 ch 46 SLA 1977)

**Legislative history reports.** — For (HCSSB 261), see 1977 House Journal, p. letter of intent on ch. 46, SLA 1977 1019.

**Sec. 37.05.310. Fiscal year.** The fiscal year of the state begins on July 1 of each year and ends at midnight on the following June 30. The accounts of the Department of Administration, the Department of Revenue, and all other state officers whose accounts are in any way connected with the treasury shall be kept, and all duties performed with reference to the beginning and ending of the fiscal year. (§ 12-4-1 ACLA 1949; am § 2 art VI ch 82 SLA 1955)

**Revisor's notes.** — Section 12-4-1 and § 2, ch. 24, SLA 1953 re-enacted ACLA 1949 was repealed and re-enacted § 12-4-1 ACLA 1949 as it appeared in by § 30, ch. 133, SLA 1951. Section 1, ch. ACLA 1949.  
24, SLA 1953 repealed ch. 133, SLA 1951

**Sec. 37.05.315. Grants to municipalities.** (a) When an amount is appropriated or allocated as a grant to a municipality, the Department of Administration shall promptly notify the municipality of the availability of the grant. When the Department of Administration receives an agreement executed by the municipality which provides that the municipality (1) will spend the grant for the purposes specified in the appropriation or allocation; (2) will allow, on request, an audit by the state of the uses made of the grant; and (3) assures that, to the extent consistent with the purpose of the appropriation or allocation, the facilities and services provided with the grant will be available for the use of the general public, the Department of Administration shall pay the grant directly to the municipality. The agreement executed by a



the named recipient unless the Office of the Governor, with due regard for any local expertise or experience among those making proposals, determines that an award of the contract to a different party would better serve the public interest. If the contract is awarded to another party than that named by the legislature, the basis of that action shall be stated in writing at the time the grant is issued and a copy of the written statement shall be sent to the Legislative Budget and Audit Committee. A contract shall be executed within 60 days after the effective date of the appropriation or allocation. The purchase of the goods or services, or both, shall be in accordance with AS 37.05.230(1)(C). (§ 2 ch 4 SLA 1982)

**Sec. 37.05.317. Grants to unincorporated communities.** When an amount is appropriated or allocated as a grant under this section to an unincorporated community, it shall be disbursed as follows:

(1) Within 45 days after the effective date of the appropriation or allocation, the Department of Community and Regional Affairs shall notify the governing body of the unincorporated community, if any, that a grant is available.

(2) The Department of Community and Regional Affairs shall determine if there is a qualified incorporated entity in the community area that will agree to receive the grant and administer it, subject to terms generally applicable to private grantees. If there is more than one such entity, the Department of Community and Regional Affairs shall select the most qualified and the grant shall be awarded to that incorporated entity for the purposes specified in the appropriation act. However, the Department of Community and Regional Affairs shall give preference to a nonprofit corporation organized by a community for receipt of the grant.

(3) If there is no incorporated entity qualified to receive the grant, the Department of Community and Regional Affairs shall administer the program as specified in the appropriation act directly or through agents or contractors with whom it may contract in the community area. (§ 2 ch 4 SLA 1982)

**Sec. 37.05.318. Further regulations prohibited.** Notwithstanding the Administrative Procedure Act (AS 44.62), the Fiscal Procedures Act (AS 37.05), and the Executive Budget Act (AS 37.07), a state agency may not adopt regulations or impose additional requirements or procedures to implement, interpret, make specific, or otherwise carry out the provisions of AS 37.05.315 — 37.05.317 unless required by the federal government for participation in federal programs. (§ 2 ch 4 SLA 1982)

**Sec. 37.05.325. Definitions for AS 37.05.315 — 37.05.317.** In AS 37.05.315 — 37.05.317, "allocation" and "appropriation" have the meanings given in AS 37.07.120(2) and (3). (§ 2 ch 4 SLA 1982)

Offered: 4/11/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE COMMUNITY AND REGIONAL  
2 AFFAIRS COMMITTEE  
3 CS FOR HOUSE BILL NO. 139 (C&RA)  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 FOURTEENTH LEGISLATURE - FIRST SESSION  
6 A BILL  
7 For an Act entitled: "An Act relating to the administration of certain  
8 grants passed by the legislature; and providing for  
9 an effective date."  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
11 \* Section 1. AS 37.05.316 is amended to read:  
12 Sec. 37.05.316. GRANTS TO NAMED RECIPIENTS. When an amount is  
13 appropriated or allocated to a department as a grant for a named  
14 recipient that [WHICH] is not a municipality, the department to which  
15 the appropriation or allocation is made shall promptly notify the  
16 named recipient of the availability of the grant and request the named  
17 recipient to submit a proposal to provide the goods or services speci-  
18 fied in the appropriation act [, OR BOTH,] for which the appropriation  
19 or allocation is made. At the same time, the department may issue a  
20 request for proposals from other qualified persons to provide the same  
21 goods or services [, OR BOTH,] in the same area. The department shall  
22 award the grant to [CONTRACT WITH] the named recipient unless the  
23 Office of the Governor, with due regard for the [ANY] local expertise  
24 or experience of [AMONG] those making proposals, determines that an  
25 award [OF THE CONTRACT] to a different party would better serve the  
26 public interest. If the grant [CONTRACT] is awarded to a [ANOTHER]  
27 party other than that named by the legislature, the basis of that  
28 action shall be stated in writing at the time the grant is issued and  
29 a copy of the written statement shall be sent to the Legislative  
Budget and Audit Committee. A grant agreement must [CONTRACT SHALL]

1 be executed within 60 days after the effective date of the appropria-  
2 tion or allocation. [THE PURCHASE OF THE GOODS OR SERVICES, OR BOTH,  
3 SHALL BE IN ACCORDANCE WITH AS 37.05.230(1)(B).]

4 \* Sec. 2. AS 37.05.318 is repealed and reenacted to read:

5 Sec. 37.05.318. REGULATIONS. The commissioner of administration  
6 shall adopt regulations to implement the provisions of AS 37.05.315 -  
7 37.05.316. The commissioner of community and regional affairs shall  
8 adopt regulations to implement the provisions of AS 37.05.317. These  
9 regulations must include provisions that establish procedures for the  
10 safekeeping and investment of grant money, the management and disposi-  
11 tion of property acquired by grant money, and the post audit of grant  
12 transactions. An audit required by these regulations is a cost of the  
13 grant. The regulations adopted under this section may not interfere  
14 with the implementation of the grant, but shall be designed to prevent  
15 the mismanagement of the grant and the misuse of grant funds.

16 \* Sec. 3. This Act takes effect July 1, 1985.

Introduced: 1/28/85  
Referred: Community & Regional  
Affairs and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 139

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the administration of certain  
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8 an effective date."

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13 recipient which is not a municipality, the department to which the  
14 appropriation or allocation is made shall promptly notify the named  
15 recipient of the availability of the grant and request the named  
16 recipient to submit a proposal to provide the goods or services speci-  
17 fied in the appropriation Act [ACT, OR BOTH], for which the appropria-  
18 tion or allocation is made. At the same time, the department may  
19 issue a request for proposals from other qualified persons to provide  
20 the same goods or services[, OR BOTH,] in the same area. The depart-  
21 ment shall award the grant to [CONTRACT WITH] the named recipient  
22 unless the Office of the Governor, with due regard for any local  
23 expertise or experience among those making proposals, determines that  
24 an award [OF THE CONTRACT] to a different party would better serve the  
25 public interest. If the grant [CONTRACT] is awarded to another party  
26 than that named by the legislature, the basis of that action must  
27 [SHALL] be stated in writing at the time the grant is issued and a  
28 copy of the written statement must [SHALL] be sent to the Legislative  
29 Budget and Audit Committee. A grant agreement must [CONTRACT SHALL]

1 be executed within 60 days after the effective date of the appropria-  
2 tion or allocation. [THE PURCHASE OF THE GOODS OR SERVICES, OR BOTH,  
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6 shall adopt regulations to implement the provisions of AS 37.05.315 --  
7 37.05.317 These regulations must include provisions that establish  
8 procedures for safekeeping and investment of grant money, management  
9 and disposition of property acquired by grant money, and post audit of  
10 grant transactions.

11 \* Sec. 3. This Act takes effect July 1, 1985.



Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 140 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL.

6 For an Act entitled: "An Act relating to the use of teleconferencing under  
7 the Administrative Procedure Act."

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

9 \* Section 1. AS 44.62.210(a) is amended to read:

10 (a) On the date and at the time and place designated in the  
11 notice the agency shall give each interested person or the person's  
12 authorized representative, or both, the opportunity to present state-  
13 ments, arguments, or contentions in writing, with or without oppor-  
14 tunity to present them orally. The state agency may accept material  
15 presented by any form of communication authorized by this chapter and  
16 shall consider all relevant matter presented to it before adopting,  
17 amending or repealing a regulation.

18 \* Sec. 2. AS 44.62.310(a) is amended to read:

19 (a) All meetings of a legislative body, of a board of regents,  
20 or of an administrative body, board, commission, committee, subcommit-  
21 tee, authority, council, agency, or other organization, including  
22 subordinate units of the above groups, of the state or any of its  
23 political subdivisions, including but not limited to municipalities,  
24 boroughs, school boards, and all other boards, agencies, assemblies,  
25 councils, departments, divisions, bureaus, commissions or organiza-  
26 tions, advisory or otherwise, of the state or local government sup-  
27 ported in whole or in part by public money or authorized to spend  
28 public money, are open to the public except as otherwise provided by  
29 this section. Attendance and participation at meetings by members of

1 the public or by members of a body may be by teleconferencing accord-  
2 ing to regulations adopted by the commissioner of administration. The  
3 regulations must include a provision that agency materials that are to  
4 be considered at the meeting be made available at teleconference  
5 locations. Except when voice votes are authorized, the vote shall be  
6 conducted in such a manner that the public may know the vote of each  
7 person entitled to vote. The vote at a meeting held by teleconference  
8 shall be taken by roll call. This section does not apply to any votes  
9 required to be taken to organize a public body described in this [THE  
10 BODIES SPECIFIED IN THE] subsection.

11 \* Sec. 3. AS 44.62.310(e) is amended to read:

12 (e) Reasonable public notice shall be given for all meetings  
13 required to be open under this section. The notice must include the  
14 date, time, and place of the meeting, general topics to be discussed  
15 or considered, and the location of any teleconferencing facilities  
16 that will be used.

17 \* Sec. 4. AS 44.62.312(a) is amended to read:

18 (a) It is the policy of the state that

19 (1) the governmental units mentioned in AS 44.62.310(a)  
20 exist to aid in the conduct of the people's business;

21 (2) it is the intent of the law that actions of those units  
22 be taken openly and that their deliberations be conducted openly;

23 (3) the people of this state do not yield their sovereignty  
24 to the agencies which serve them;

25 (4) the people, in delegating authority, do not give their  
26 public servants the right to decide what is good for the people to  
27 know and what is not good for them to know;

28 (5) the people's right to remain informed shall be protect-  
29 ed so that they may retain control over the instruments they have

1 created;

2 (6) the use of teleconferencing under this chapter is for  
3 the convenience of the parties, the public, and the governmental units  
4 conducting the meetings and is to provide the broadest input and  
5 dissemination of information practicable.

6 \* Sec. 5. AS 44.62.410 is amended by adding a new subsection to read:

7 (b) Upon the mutual agreement of the parties, the agency may use  
8 teleconferencing in the conduct of a hearing under this section.

9 \* Sec. 6. AS 44.62.600 is amended to read:

10 Sec. 44.62.600. VOTING PROCEDURE (MAIL VOTE). If voting in  
11 person is not reasonably possible, a [A] member of an agency qualified  
12 to vote on a question may vote by mail or by teleconferencing. A vote  
13 by teleconferencing shall be recorded in a manner that identifies each  
14 person who has voted and how the person voted.

15 \* Sec. 7. AS 44.62 is amended by adding a new section to article 9 to  
16 read:

17 Sec. 44.62.635. TELECONFERENCING. (a) An agency may use tele-  
18 conferencing for the benefit or convenience of the parties, the pub-  
19 lic, or the agency, in connection with a proceeding or act authorized  
20 under this chapter if all statutory and constitutional rights of the  
21 parties are waived or adequately protected.

22 (b) Teleconferencing may be used to establish quorums, receive  
23 public input, and, if all voting individuals have an opportunity to  
24 evaluate all testimony and evidence, to vote on actions.

25 \* Sec. 8. AS 44.62.640 is amended by adding a new subsection to read:

26 (c) In this chapter "teleconferencing" means information ex-  
27 change by audio or video medium.  
28  
29

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

Page 1 of 2

**REQUEST**

Bill/Resolution No.: CSHB 140 (Sub)  
Title: Relating to use of teleconferencing under Administrative Procedures Act

Sponsor: Governor  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Administration  
Program Category Affected: \_\_\_\_\_  
General Government  
BRU, Program or Subprogram(s) Affected: Telecommunications Services

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary)**

See Attached

Prepared By: *SLP* Sioux Plummer, Director Phone: 465-2041  
Division: Telecommunications Services Date: April 1, 1985

Approved by Commissioner: *LR* Lisa Rudd Date: 4/1/85  
Agency: Department of Administration

**Distribution (by Agency preparing fiscal note):**

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

CSHB 140 (Jud)  
Fiscal Note Analysis  
Prepared by Division of Telecommunications Services  
Department of Administration  
April 1, 1985

This bill will clarify the legitimate use of teleconferencing for meetings and hearings held under the Administrative Procedures Act (AS 44.62). Specifically it will permit teleconference use by publically funded bodies for presentations, discussions and testimony at public hearings, and for counting quorum and voting.

The legal clarification of teleconference use will have no direct fiscal impact. Indirectly, however, some fiscal impact may be felt as increased use of teleconferencing could save money currently expended for travel. Costs associated with the process of adopting regulations will be less than \$1,000.00 and can be covered by existing operating funds.

Clarification and the resulting increase in use of teleconferencing will allow for greater participation in public policy making. It will also encourage broader circulation of information to and from governmental bodies and the public.

Rec'd 4-25-85

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_ Page 1 of 2

REQUEST  
Bill/Resolution No.: CSHB 140 (Rules)  
Title: Relating to use of teleconferencing under Administrative Procedures Act  
Sponsor: Governor  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

FISCAL DETAIL  
Agency Affected: Administration  
Program Category Affected: \_\_\_\_\_  
BRU, Program or Subprogram(s) Affected: Telecommunications Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared By: Sioux Plummer, Director Phone: 465-2041  
Division: Telecommunications Services Date: April 16, 1985

Approved by Commissioner: Lisa Rudd Date: 4/24/85  
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

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

CSHB 140 (Rules)  
Fiscal Note Analysis  
Prepared by Division of Telecommunications Services  
Department of Administration  
April 16, 1985

This bill will clarify the legitimate use of teleconferencing for meetings and hearings held under the Administrative Procedures Act (AS 44.62). Specifically it will permit teleconference use by publically funded bodies for presentations, discussions and testimony at public hearings, and for counting quorum and voting.

The legal clarification of teleconference use will have no direct fiscal impact. Indirectly, however, some fiscal impact may be felt as increased use of teleconferencing could save money currently expended for travel.

Clarification and the resulting increase in use of teleconferencing will allow for greater participation in public policy making. It will also encourage broader circulation of information to and from governmental bodies and the public.

Position Paper


CSHB 140 (Rules)

The Department of Administration supports the passage of CSHB 140 (Rules) (An Act relating to the use of teleconferencing under the Administrative Procedures Act) because it will clarify past and present ambiguities relating to the use of teleconferencing for the conduct of State business. The legality of taking public testimony, establishing quorums and voting will be clarified specifically.

Teleconferencing has proven to be an effective communications medium when used to disseminate or gather information. Legal considerations for meetings have arisen when teleconferencing has been used for decision making requiring quorums for voting.

Passage of this bill will have no direct fiscal impact on State agencies. The potential for cost savings exists because teleconferencing provides a less expensive way for agencies to do business. Although telephone costs would increase, it could still be cheaper to meet by teleconference than to travel to meetings.

Use of teleconferencing will also enable more people to participate in the decision making process. The public and State agencies will have increased participatory opportunities without associated high travel costs as well as the ability to conduct business more quickly and efficiently.

  
\_\_\_\_\_  
Sioux Plummer, Director  
Division of Telecommunications Services  
Department of Administration

4-16-85  
Date

  
\_\_\_\_\_  
Commissioner Lisa Rudd  
Department of Administration

4/24/85  
Date

KEY:  
— additions to JUD C. S.  
[ ] deletions from JUD C. S.

Original sponsor: Rules/Governor

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IN THE HOUSE

BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 140 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the use of teleconferencing under the Administrative Procedure Act."

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

\* Section 1. AS 44.62.210(a) is amended to read:

(a) On the date and at the time and place designated in the notice the agency shall give each interested person or the person's authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with or without opportunity to present them orally. The state agency may accept material presented by any form of communication authorized by this chapter and shall consider all relevant matter presented to it before adopting, amending or repealing a regulation.

\* Sec. 2. AS 44.62.310(a) is amended to read:

(a) All meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, authority, council, agency, or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money, are open to the public except as otherwise provided by this section. Attendance and participation at meetings by members of

1  
2 the public or by members of a body may be by teleconferencing accord-  
3 ing to regulations adopted by the commissioner of administration. The  
4 regulations must include a provision that agency materials that are to  
5 be considered at the meeting be made available at teleconference  
6 locations. Except when voice votes are authorized, <sup>for when the meeting is being held by teleconferen</sup> the vote shall be  
7 conducted in such a manner that the public may know the vote of each  
8 person entitled to vote. The vote at a meeting held by teleconference  
9 shall be taken by roll call. This section does not apply to any votes  
10 required to be taken to organize a public body described in this [THE  
11 BODIES SPECIFIED IN THE] subsection.

12 \* Sec. 3. AS 44.62.310(e) is amended to read:

13 (e) Reasonable public notice shall be given for all meetings  
14 required to be open under this section. The notice must include the  
15 date, time, and place of the meeting, general topics to be discussed  
16 or considered, and the location of any teleconferencing facilities  
17 that will be used.

18 \* Sec. 4. AS 44.62.312(a) is amended to read:

19 (a) It is the policy of the state that

20 (1) the governmental units mentioned in AS 44.62.310(a)  
21 exist to aid in the conduct of the people's business;

22 (2) it is the intent of the law that actions of those units  
23 be taken openly and that their deliberations be conducted openly;

24 (3) the people of this state do not yield their sovereignty  
25 to the agencies which serve them;

26 (4) the people, in delegating authority, do not give their  
27 public servants the right to decide what is good for the people to  
28 know and what is not good for them to know;

29 (5) the people's right to remain informed shall be protect-  
ed so that they may retain control over the instruments they have

1  
2 created;

3 (6) the use of teleconferencing under this chapter is for  
4 the convenience of the parties, the public, and the governmental units  
5 conducting the meetings and is to provide the broadest input and  
6 dissemination of information practicable.

7 \* Sec. 5. AS 44.62.410 is amended by adding a new subsection to read:

8 (b) Upon the mutual agreement of the parties, the agency may use  
9 teleconferencing in the conduct of a hearing under this section.

10 \* Sec. 6. AS 44.62.600 is amended to read:

11 Sec. 44.62.600. VOTING PROCEDURE [MAIL VOTE]. If voting in  
12 person is not reasonably possible, a [A] member of an agency qualified  
13 to vote on a question may vote by mail or by teleconferencing. A vote  
14 by teleconferencing shall be recorded in a manner that identifies each  
15 person who has voted and how the person voted.

16 \* Sec. 7. AS 44.62 is amended by adding a new section to article 9 to  
17 read:

18 Sec. 44.62.635. TELECONFERENCING. (a) An agency may use tele-  
19 conferencing for the benefit or convenience of the parties, the pub-  
20 lic, or the agency, in connection with a proceeding or act authorized  
21 under this chapter if all statutory and constitutional rights of the  
22 parties are waived or adequately protected.

23 (b) Teleconferencing may be used to establish quorums, receive  
24 public input, and, if all voting individuals have an opportunity to  
25 evaluate all testimony and evidence, to vote on actions.

26 \* Sec. 8. AS 44.62.640 is amended by adding a new subsection to read:

27 (c) In this chapter "teleconferencing" means information ex-  
28 change by audio or video medium.  
29

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF ADMINISTRATION

DIVISION OF TELECOMMUNICATIONS SERVICES

POUCH C  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2041

April 2, 1985

Honorable Al Adams, Chairman  
House Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Chairman Adams:

Enclosed is the sectional analysis of CSHB 140 (Jud) that you requested. I hope that it provides the information you and the House Finance Committee require.

It has come to my attention that the new language in Section 3 regarding voice votes is still somewhat confusing. It was House Judiciary's intent to require roll call votes when meetings are held by teleconference but to continue the use of voice votes when authorized and appropriate in face to face meetings. Enclosed is proposed language to clear up this point. I hope that you and the House Finance Committee will approve this amendment and include it in this legislation.

If you have questions or would like additional information, please call me.

Sincerely,

  
Sioux Plummer  
Director

SKP/bb

8.0/DTS3

cc: House Finance Committee Members

James R. Shea, Deputy Commissioner for  
Telecommunications  
Department of Administration

Rebecca Burch, Special Assistant to  
the Commissioner  
Department of Administration

# MEMORANDUM

# State of Alaska

TO: Sioux Plummer, Director  
Division of Telecommunications  
Services  
Department of Administration

DATE: April 2, 1985

FILE NO: 377-043-85

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: Proposed amendment  
to correct CSHB  
140(Jud) re tele-  
conferencing under  
the Administrative  
Procedure Act

By: Peter B. Froehlich *PBF*  
Assistant Attorney General  
and Assistant Legislation Attorney

At the March 22, 1985 meeting of the House Judiciary Committee, at which this committee substitute was adopted, a concern was raised that voice votes (e.g., "all in favor say 'aye'") should not be used at teleconferenced meetings. To accommodate that concern, the committee inserted language into the second to the last sentence of AS 44.62.310(a) which appears on page 2, lines 5 -- 8 of CSHB 140(Jud). With the addition, that sentence reads:

Except when voice votes are authorized or when the meeting is being held by teleconference, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote.

To clarify the intent of the committee, with which we all agree, I propose that the underlined addition be deleted and a new sentence be added after the sentence which now includes the underlined addition. The two sentences would then read:

Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. All votes at meetings held by teleconference must be taken by roll call.

I have consulted with Hayden Kaden, counsel to the House Judiciary Committee, and he agrees with this approach and will contact the House Finance Committee staff.

An amendment to accomplish the correction is attached.

PBF:md

Attachment

cc: Rebecca Burch  
Legislative Liaison  
Dept. of Administration

Sioux Plummer, Director  
Division of Telecommunications  
Services

April 2, 1985  
Page 2

Hayden Kaden  
Counsel to House Judiciary  
Committee

AMENDMENT TO CSHB 140(Jud)  
RE TELECONFERENCES UNDER THE ADMINISTRATIVE PROCEDURE ACT

Page 2, lines 5 and 6:

Delete the underlined material.

Page 2, line 8:

Following "vote.", insert "All votes at meetings held  
by teleconference must be taken by roll call."

CSHB 140(Jud)

(Teleconferencing under the Administrative Procedure Act)

SECTION-BY-SECTION ANALYSIS

ARTICLE 4. PROCEDURE FOR ADOPTING REGULATIONS

\* Section 1 amends AS 44.62.210 which is entitled "Public Proceedings" to clarify that agencies proposing to adopt administrative regulations may accept comments from the public by any form of communication. This amendment would affirm a growing current practice.

ARTICLE 6. AGENCY MEETINGS PUBLIC

\* Section 2 amends AS 44.62.310(a) to permit teleconference participation at public meetings of a public body by both members of the body and members of the public, according to regulations adopted by the commissioner of administration.

\* Section 3 amends AS 44.62.310(e) to add a requirement that the notices already required for public meetings must include specific information about the meeting and about any teleconferencing that will be used.

\* Section 4 adds a new paragraph to AS 44.62.312(a) stating the general policy that the use of teleconferencing is for the convenience of parties, the public, and the bodies conducting meetings.

ARTICLE 8. ADMINISTRATIVE ADJUDICATION

\* Section 5 adds a new subsection to AS 44.62.410 which is entitled "Time and Place of Hearing." The new subsection authorizes the parties to an administrative adjudication to agree to use teleconferencing in conducting a hearing.

\* Section 6 amends AS 44.62.600 and changes its title to "Voting Procedure." The amended section permits voting by members of an agency in an adjudication by means of teleconferencing, in addition to the currently authorized mail method. If votes are by teleconference they must be recorded to identify the way each member voted.

ARTICLE 9. GENERAL PROVISIONS

\* Section 7 adds a new general section to AS 44.62 to broadly authorize the use of teleconferencing for any proceeding or act under the Administrative Procedure Act and specifically for establishing quorums, taking public input, and for voting when all voters have had an opportunity to review testimony and evi-

dence. This section, which is really the most important single section of the bill, includes a proviso that the use of teleconferencing may not violate statutory or constitutional rights of parties.

\* Section 8 adds a paragraph to AS 44.62.640 to define "teleconferencing" as information exchange by audio or video media.

Position Paper

CSHB 140 (Jud)

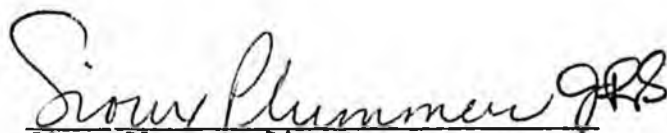
The Department of Administration supports the passage of CSHB 140 (Jud) (An Act relating to the use of teleconferencing under the Administrative Procedures Act) because it will clarify past and present ambiguities relating to the use of teleconferencing for the conduct of State business. The legality of taking public testimony, establishing quorums and voting will be clarified specifically.

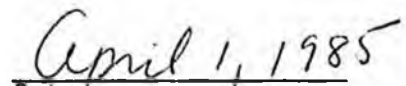
Teleconferencing has proven to be an effective communications medium when used to disseminate or gather information. Legal considerations for meetings have arisen when teleconferencing has been used for decision making requiring quorums for voting.

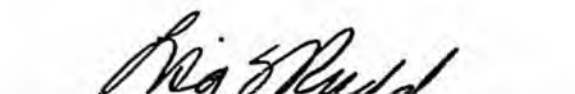
Passage of this bill will have no direct fiscal impact on State agencies other than the Department of Administration in that regulations regarding teleconferences use must be adopted by this Commissioner. The costs incurred to promulgate these regulations will be less than \$1,000.00 and can be covered by existing operating funds.

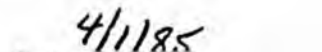
The potential for cost savings exists because teleconferencing provides a less expensive way for agencies to do business. Although telephone costs would increase, it could still be cheaper to meet by teleconference than to travel to meetings.

Use of teleconferencing will also enable more people to participate in the decision making process. The public and State agencies will have increased participatory opportunities without associated high travel costs as well as the ability to conduct business more quickly and efficiently.

  
\_\_\_\_\_  
Sioux Plummer, Director  
Division of Telecommunications Services  
Department of Administration

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Commissioner Lisa Rudd  
Department of Administration

  
\_\_\_\_\_  
Date

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF TELECOMMUNICATIONS SERVICES

POUCH C  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2041

March 18, 1985

Honorable Mike Miller  
Chairman, House Judiciary Committee  
Capitol 122  
Pouch V  
Juneau, AK 99811

Re: HB 140 - The "Teleconferencing Bill"

Dear Mr. Chairman, *Mike*

For your information, listed below are some points to consider about HB 140, an Act related to teleconferencing under the Administrative Procedures Act, better known as the "Teleconferencing Bill".

1. What will HB 140 bill do?

- Amend sections of the Administrative Procedures Act (AS 44.62) to permit the use of teleconferencing for the conduct of State business.
- Clear up the legal issues about teleconference use; specifically permitting the use of teleconferencing for quorum counting, voting and taking public testimony.
- Direct that procedures be developed for adequate public notice, availability of materials at teleconference sites, and identification of voting members.

2. Who will be affected?

- State agencies, boards and commissions
- The general public through increased opportunities to participate in government decision making from local locations.

3. How will they be affected?

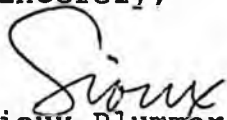
- Groups presently using teleconferencing will have the opportunity to continue and to expand the types of business conducted by teleconference.
- New users will know that use of teleconferencing is "OK" from a legal standpoint.

March 18, 1985

4. What other benefits will this bill bring?
- Increased participation by State agencies in that more people will be able to participate without the associated high cost of travel.
  - Increased participation by Alaskans throughout the State in public hearings and decision making.
  - Potential cost savings for State agencies in using teleconferencing in lieu of travel at appropriate times.
  - Cost savings to members of the public who will be able to provide input without traveling great distances to do so.
  - State agency business can be conducted more quickly and efficiently.
5. Will this bill result in teleconferencing completely replace travel?
- NO! It is intended to permit teleconference use. The amount of use of this technology will remain at the discretion of the using groups.
6. How much will HB 140 cost?
- No operating or capital funds will be needed.
  - Cost savings can result with passage in that teleconferencing is cheaper than travelling.

I hope this information will be helpful to you and the Judiciary Committee. Please don't hesitate to call if we can be of any further assistance.

Sincerely,

  
Sioux Plummer, Director

SP/dk  
6.6/DTS3

Offered: 3/25/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR HOUSE BILL NO. 140 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the use of teleconferencing under  
7 the Administrative Procedure Act."

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

9 \* Section 1. AS 44.62.210(a) is amended to read:

10 (a) On the date and at the time and place designated in the  
11 notice the agency shall give each interested person or the person's  
12 authorized representative, or both, the opportunity to present state-  
13 ments, arguments, or contentions in writing, with or without oppor-  
14 tunity to present them orally. The state agency may accept material  
15 presented by any form of communication authorized by this chapter and  
16 shall consider all relevant matter presented to it before adopting,  
17 amending or repealing a regulation.

18 \* Sec. 2. AS 44.62.310(a) is amended to read:

19 (a) All meetings of a legislative body, of a board of regents,  
20 or of an administrative body, board, commission, committee, subcommit-  
21 tee, authority, council, agency, or other organization, including  
22 subordinate units of the above groups, of the state or any of its  
23 political subdivisions, including but not limited to municipalities,  
24 boroughs, school boards, and all other boards, agencies, assemblies,  
25 councils, departments, divisions, bureaus, commissions or organiza-  
26 tions, advisory or otherwise, of the state or local government sup-  
27 ported in whole or in part by public money or authorized to spend  
28 public money, are open to the public except as otherwise provided by  
29 this section. Attendance and participation at meetings by members of

1 the public or by members of a body may be by teleconferencing accord-  
2 ing to regulations adopted by the commissioner of administration. The  
3 regulations must include a provision that agency materials that are to  
4 be considered at the meeting be made available at teleconference  
5 locations. Except when voice votes are authorized or when the meeting  
6 is being held by teleconference, the vote shall be conducted in such a  
7 manner that the public may know the vote of each person entitled to  
8 vote. This section does not apply to any votes required to be taken  
9 to organize a public body described [THE BODIES SPECIFIED] in the  
10 subsection.

11 \* Sec. 3. AS 44.62.310(e) is amended to read:

12 (e) Reasonable public notice shall be given for all meetings  
13 required to be open under this section. The notice must include the  
14 date, time, and place of the meeting, general topics to be discussed  
15 or considered, and the location of any teleconferencing facilities  
16 that will be used.

17 \* Sec. 4. AS 44.62.312(a) is amended to read:

18 (a) It is the policy of the state that

19 (1) the governmental units mentioned in AS 44.62.310(a)  
20 exist to aid in the conduct of the people's business;

21 (2) it is the intent of the law that actions of those units  
22 be taken openly and that their deliberations be conducted openly;

23 (3) the people of this state do not yield their sovereignty  
24 to the agencies which serve them;

25 (4) the people, in delegating authority, do not give their  
26 public servants the right to decide what is good for the people to  
27 know and what is not good for them to know;

28 (5) the people's right to remain informed shall be protect-  
29 ed so that they may retain control over the instruments they have

1 created;

2 (6) the use of teleconferencing under this chapter is for  
3 the convenience of the parties, the public, and the governmental units  
4 conducting the meetings and is to provide the broadest input and  
5 dissemination of information practicable.

6 \* Sec. 5. AS 44.62.410 is amended by adding a new subsection to read:

7 (b) Upon the mutual agreement of the parties, the agency may use  
8 teleconferencing in the conduct of a hearing under this section.

9 \* Sec. 6. AS 44.62.600 is amended to read:

10 Sec. 44.62.600. VOTING PROCEDURE [MAIL VOTE]. If voting in  
11 person is not reasonably possible, a [A] member of an agency qualified  
12 to vote on a question may vote by mail or by teleconferencing. A vote  
13 by teleconferencing shall be recorded in a manner that identifies each  
14 person who has voted and how the person voted.

15 \* Sec. 7. AS 44.62 is amended by adding a new section to article 9 to  
16 read:

17 Sec. 44.62.635. TELECONFERENCING. (a) An agency may use tele-  
18 conferencing for the benefit or convenience of the parties, the pub-  
19 lic, or the agency, in connection with a proceeding or act authorized  
20 under this chapter: if all statutory and constitutional rights of the  
21 parties are waived or adequately protected.

22 (b) Teleconferencing may be used to establish quorums, receive  
23 public input, and, if all voting individuals have an opportunity to  
24 evaluate all testimony and evidence, to vote on actions.

25 \* Sec. 8. AS 44.62.640 is amended by adding a new subsection to read:

26 (c) In this chapter "teleconferencing" means information ex-  
27 change by audio or video medium.

Introduced: 1/28/85  
Referred: House Special Committee  
on Telecommunications, Judiciary  
and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 140

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the use of teleconferencing under  
7 the Administrative Procedure Act."

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

9 \* Section 1. INTENT. The amendments in this Act are intended to allow  
10 state agencies, as defined in AS 44.62, and the public to employ advances  
11 in teleconferencing technology that can increase the efficiency and conve-  
12 nience of transacting business with or by a state agency. Nothing in this  
13 Act is intended to diminish the constitutional or statutory rights of the  
14 parties, or existing procedural safeguards.

15 \* Sec. 2. AS 44.62.210(a) is amended to read:

16 (a) On the date and at the time and place designated in the  
17 notice the agency shall give each interested person or the [HIS]  
18 authorized representative of the person, or both, the opportunity to  
19 present statements, arguments, or contentions in writing, with or  
20 without opportunity to present them orally. The state agency may  
21 accept material presented by any form of communication authorized by  
22 this chapter, unless otherwise designated in the notice, and shall  
23 consider all relevant matter so presented to it before adopting,  
24 amending or repealing a regulation.

25 \* Sec. 3. AS 44.62.310(a) is amended to read:

26 (a) All meetings of a legislative body, of a board of regents,  
27 or of an administrative body, board, commission, committee, subcommit-  
28 tee, authority, council, agency, or other organization, including  
29 subordinate units of the above groups, of the state or any of its

1 political subdivisions, including but not limited to municipalities,  
2 boroughs, school boards, the University of Alaska, and all other  
3 boards, agencies, assemblies, councils, departments, divisions, bu-  
4 reaus, commissions or organizations, advisory or otherwise, of the  
5 state or local government supported in whole or in part by public  
6 money or authorized to spend public money, are open to the public  
7 except as otherwise provided by this section. Attendance and partici-  
8 ipation at meetings by members of the public or by members of a body  
9 may be by teleconferencing according to reasonable ground rules estab-  
10 lished by the body conducting the meeting. The ground rules must  
11 provide that agency materials that are to be considered at the meeting  
12 are available at teleconference locations. The rules are not con-  
13 sidered regulations and need not be adopted under AS 44.62.040 --  
14 44.62.290. Except when voice votes are authorized, the vote shall be  
15 conducted in such a manner that the public may know the vote of each  
16 person entitled to vote. This section does not apply to any votes  
17 required to be taken to organize a public body described in this  
18 subsection [THE AFORE-MENTIONED BODIES].

19 \* Sec. 4. AS 44.62.310(e) is amended to re.

20 (e) Reasonable public notice shall be given for all meetings  
21 required to be open under this section. The notice must include the  
22 date, time, and place of the meeting, general topics to be discussed  
23 or considered, and the location of any teleconferencing facilities  
24 which will be used.

25 \* Sec. 5. AS 44.62.312(a) is amended to read:

26 (a) It is the policy of the state that

27 (1) the governmental units mentioned in AS 44.62.310(a)  
28 exist to aid in the conduct of the people's business;

29 (2) it is the intent of the law that actions of those units

1 be taken openly and that their deliberations be conducted openly;

2 (3) the people of this state do not yield their sovereignty  
3 to the agencies which serve them;

4 (4) the people, in delegating authority, do not give their  
5 public servants the right to decide what is good for the people to  
6 know and what is not good for them to know;

7 (5) the people's right to remain informed shall be protect-  
8 ed so that they may retain control over the instruments they have  
9 created;

10 (6) the use of teleconferencing under this chapter is for  
11 the convenience of the parties, the public, and the governmental units  
12 conducting the meetings and is to provide the broadest input and  
13 dissemination of information practicable.

14 \* Sec. 6. AS 44.62.410 is amended by adding a new subsection to read:

15 (b) Upon the mutual agreement of the parties, the agency may use  
16 teleconferencing in the conduct of a hearing under this section.

17 \* Sec. 7. AS 44.62.600 is amended to read:

18 Sec. 44.62.600. VOTING PROCEDURE [MAIL VOTE]. When normal,  
19 in-person voting is not reasonably possible, a [A] member of an agency  
20 qualified to vote on a question may vote by mail or by teleconferenc-  
21 ing. A vote by teleconferencing must be recorded in a manner that  
22 identifies each person who has voted and on which side of the question  
23 the person voted.

24 \* Sec. 8. AS 44.62 is amended by adding a new section in Article 9 to  
25 read:

26 Sec. 44.62.635. TELECONFERENCING. (a) In addition to the spe-  
27 cific authorizations in this chapter of the use of teleconferencing,  
28 an agency may use teleconferencing for the benefit or convenience of  
29 the parties, the public, or the agency, in connection with any

1 proceeding or act authorized under this chapter, so long as all stat-  
2 utory and constitutional rights of the parties are either waived or  
3 adequately protected.

4 (b) Teleconferencing may be used to establish quorums, receive  
5 public input, and, if all voting individuals have a substantially  
6 equal opportunity to evaluate all testimony and evidence, to vote on  
7 actions.

8 \* Sec. 9. AS 44.62.640 is amended by adding a new subsection to read:

9 (c) In this chapter "teleconferencing" means information ex-  
10 change by audio, video, or computerized electronic media.