

LEG. FINANCE - BILLS 1985 - 1986 2352

HB 159 cont. - HB 161 2350

1 removed in accordance with the order, a permit authorizing the utility
2 issued by the department under AS 35.10.210 becomes invalid and the
3 facility will be considered an unauthorized encroachment subject to
4 the provisions of AS 35.10.270.

5 (c) The cost of change, relocation, or removal, as defined in
6 AS 35.25.020, ordered under (a) of this section is to be paid as
7 follows:

8 (1) by the department as a cost of public facility con-
9 struction, if the utility facility is installed or authorized under a
10 utility permit or a regulation after the effective date of this Act;

11 (2) by the department as a cost of highway construction if
12 the facility is installed before the effective date of this Act;

13 (3) by the utility in all other cases unless the commis-
14 sioner finds it is in the public interest for the cost to be paid by
15 the department.

16 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be
17 constructed, placed, changed, or maintained across or within a public
18 facility, but only in accordance with regulations or procedures adopt-
19 ed by the department. An encroachment may not be constructed, placed,
20 maintained, or changed until it is authorized by a written permit
21 issued by the department, unless the department provides otherwise by
22 regulation.

23 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,
24 incidental to the construction or maintenance of a state public facil-
25 ity, the department determines and orders that an encroachment pre-
26 viously authorized by written permit must be changed, relocated, or
27 removed, the owner of the encroachment shall change, relocate, or
28 remove it within a reasonable time set by the department in the order.
29 The cost of the change, relocation, or removal shall be paid as

1 provided in AS 35.10.220(c). If the owner does not change, relocate,
2 or remove an encroachment within the time set by the department, the
3 encroachment will be considered an unauthorized encroachment and
4 subject to the provisions of AS 35.10.270.

5 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized
6 encroachment exists in, on, under, or over a state public facility,
7 the department may require the removal of the encroachment, at the
8 expense of the owner, in the manner provided in AS 35.10.260 - 35.10.-
9 270.

10 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.
11 Notice shall be given the owner, occupant, or person in possession of
12 an unauthorized encroachment, or to another person causing or per-
13 mitting the encroachment to exist, by serving upon any of them a
14 notice demanding the removal of the encroachment within a time limit
15 set by the department. The notice shall describe the encroachment
16 with reasonable certainty as to its character and location. Service
17 of the notice may be made by certified mail.

18 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.
19 After a failure of the owner of an unauthorized encroachment to comply
20 with the notice or order of the department under AS 35.10.220, 35.10.-
21 240, or 35.10.260, the department may remove the encroachment, or
22 cause it to be removed. The owner of the unauthorized encroachment
23 shall pay to the department

24 (1) the expense of the removal of the encroachment;

25 (2) all costs and expenses paid by the state as a result of
26 a claim or claims filed against the state by third parties for damages
27 due to delays because the encroachment was not changed, removed, or
28 relocated according to the order of the department; and

29 (3) costs and expense of suit.

1 * Sec. 7. AS 35.25.020 is repealed and reenacted to read:
2 Sec. 35.25.020. DEFINITIONS. In this title, unless the context
3 requires otherwise,
4 (1) "construction" or a derivative of the term "construc-
5 tion" means construction, reconstruction, alteration, improvement, or
6 major repair;
7 (2) "cost of change, relocation, or removal" means the
8 entire cost incurred by the utility properly attributed to the change,
9 relocation, or removal of a facility, less any costs for improvements
10 or upgrading over and above the cost of a functionally equal facility;
11 if a facility is to be relocated and replaced with new equipment,
12 there shall also be subtracted from the entire cost any salvage value
13 derived from the old facility;
14 (3) "department" means the Department of Transportation and
15 Public Facilities;
16 (4) "encroachment" includes a tower, pole, poleline, pipe,
17 pipeline, driveway, private road, fence, billboard, stand or building,
18 or a structure or object of any kind that is or has been placed in,
19 on, under, or over a portion of a public facility;
20 (5) "maintenance" means the preservation of each type of
21 facility as nearly as possible in its original condition as construct-
22 ed, or as improved;
23 (6) "public building" means a building owned or controlled
24 and held by the state for government or public use;
25 (7) "public facility" or "public work" means a structure or
26 project constructed or maintained by the department except airports
27 and highways, and includes public buildings, boat harbors, port facil-
28 ities, dikes, jetties, and breakwaters;
29 (8) "utility" includes a corporation, company, individual,

1 or association of individuals, or a lessee, trustee, or court-appointed
2 ed receiver, that owns, operates, manages, or controls a line, plant,
3 pipeline, or system for furnishing, producing, generating, transmitting,
4 or distributing power, electricity, communications, telecommunications,
5 water, gas, oil, petroleum products, coal or other mineral
6 slurry, steam, heat, light, chemicals, air, sewage, drainage not
7 connected with public facility drainage, irrigation, or similar products
8 including publicly owned fire and police signal systems and
9 street lighting systems that directly or indirectly serve the public
10 or a segment of the public; "utility" also includes a corporation,
11 company, individual, or association of individuals, or a lessee,
12 trustee, or court-appointed receiver that owns, operates, manages, or
13 controls any system for furnishing transportation of goods or persons
14 by means of a railway, tramway, cableway, conveyor, flume, canal,
15 tunnel, pipeline, or a similar means;

16 (9) "utility facility" includes poles, plants, lines,
17 trenches, bridges, utilidors, tunnels, pipelines, and any other system
18 for furnishing, producing, generating, transmitting, or distributing
19 power, electricity, communications, telecommunications, water, gas,
20 oil, petroleum products, coal or other mineral slurry, steam, heat,
21 light, chemicals, air, sewage, drainage not connected with a public
22 facility drainage system, irrigation, or another substance; "utility
23 facility" also includes a system for furnishing transportation of
24 goods or persons by means of a railway, tramway, cableway, conveyor,
25 flume, canal, tunnel, pipeline, or a similar means.

26 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
27 10.070(c).

Offered: 2/22/85
Referred: Transportation
and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 159 (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 utilities and encroachments in
7 state airports, public facilities, and highways; and
8 providing for an effective date."

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

10 * Section 1. AS 02.15 is amended by adding new sections to article 2 to
11 read:

12 Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-
13 ity may be constructed, placed, or maintained across, along, over,
14 under, or within a state airport only in accordance with regulations
15 adopted or procedures prescribed by the department and only if au-
16 thorized by a written permit issued by the department.

17 Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO
18 AIRPORT PROJECTS. (a) If, incident to the construction of an airport
19 project, the department determines and orders that a utility facility
20 located across, along, over, under, or within a state airport must be
21 changed, relocated, or removed, the utility owning or maintaining the
22 facility shall change, relocate, or remove it in accordance with the
23 order, within a reasonable time set by the department in the order.

24 (b) If the utility facility is not changed, relocated, or re-
25 moved in accordance with the order, any permit authorizing the facil-
26 ity issued by the department under AS 02.15.102 becomes invalid and
27 the facility will be considered an unauthorized encroachment subject
28 to the provisions of AS 02.15.114.

29 (c) The cost of change, relocation, or removal, as defined in

1 AS 02.15.260, ordered under (a) of this section is to be paid as
2 follows:

3 (1) by the department as a cost of airport construction,
4 provided that the utility facility is properly installed in accordance
5 with a permit, or in the absence of a permit, was installed before the
6 effective date of this Act in the proper location in accordance with
7 department regulations;

8 (2) by the utility in all other cases.

9 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be
10 constructed, placed, changed, or maintained across or within an air-
11 port, but only in accordance with regulations or procedures adopted by
12 the department. An encroachment may not be constructed, placed, main-
13 tained, or changed until it is authorized by a written permit issued
14 by the department, unless the department provides otherwise by regula-
15 tion.

16 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If,
17 incidental to the construction or maintenance of a state airport the
18 department determines and orders that an encroachment previously
19 authorized by written permit must be changed, relocated, or removed,
20 the owner of the encroachment shall change, relocate, or remove it
21 within a reasonable time set by the department in the order. The cost
22 of the change, relocation, or removal shall be paid as provided in
23 AS 02.15.104(c). If the owner does not change, relocate, or remove an
24 encroachment within the time set by the department, the encroachment
25 will be considered an unauthorized encroachment subject to the pro-
26 visions of AS 02.15.114.

27 Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized
28 encroachment exists in, on, under, or over a state airport the depart-
29 ment may require the removal of the encroachment, at the expense of

1 the owner, in the manner provided in AS 02.15.112 - 02.15.114.

2 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.
3 Notice shall be given the owner, occupant, or person in possession of
4 an unauthorized encroachment, or to another person causing or per-
5 mitting the encroachment to exist, by serving upon any of them a
6 notice demanding the removal of the encroachment within a time limit
7 set by the department. The notice shall describe the encroachment
8 with reasonable certainty as to its character and location. Service
9 of the notice may be made by certified mail.

10 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;
11 REMOVAL EXPENSE. After a failure of the owner of an unauthorized
12 encroachment to comply with a notice or order of the department under
13 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the
14 encroachment, or cause it to be removed. The owner of the unauthor-
15 ized encroachment shall pay to the department

16 (1) the expense of the removal of the encroachment;

17 (2) all costs and expenses paid by the state as a result of
18 a claim or claims filed against the state by third parties for damages
19 due to delays because the encroachment was not changed, removed, or
20 relocated according to the order of the department; and

21 (3) costs and expense of suit.

22 * Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

23 (15) "cost of change, relocation, or removal" means the
24 entire cost incurred by the utility properly attributed to the change,
25 relocation, or removal of a facility, less the costs for improvements
26 or upgrading over and above the cost of a functionally equal facility;
27 if a facility is to be relocated and replaced with new equipment,
28 there shall also be subtracted from the entire cost the salvage value
29 derived from the old facility;

1 (16) "encroachment" includes a tower, pole, poleline, pipe,
2 pipeline, driveway, private road, fence, billboard, stand or building,
3 or structure or object of any kind that is or has been placed in, on,
4 under, or over a portion of an airport;

5 (17) "utility" includes a corporation, company, individual,
6 or association of individuals, or a lessee, trustee, or court-appointed
7 receiver, that owns, operates, manages, or controls a line, plant,
8 pipeline, or system for furnishing, producing, generating, transmitting,
9 or distributing power, electricity, communications, telecommu-
10 nications, water, gas, oil, petroleum products, coal or other mineral
11 slurry, steam, heat, light, chemicals, air, sewage, drainage not
12 connected with airport drainage, irrigation, or similar products
13 including publicly owned fire and police signal systems and street
14 lighting systems that directly or indirectly serve the public or a
15 segment of the public; "utility" also includes a corporation, company,
16 individual, or association of individuals, or a lessee, trustee, or
17 court-appointed receiver that owns, operates, manages, or controls a
18 system for furnishing transportation of goods or persons by means of a
19 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,
20 or a similar means;

21 (18) "utility facility" includes poles, plants, lines,
22 trenches, bridges, utilidors, tunnels, pipelines, and any other system
23 for furnishing, producing, generating, transmitting, or distributing
24 power, electricity, communications, telecommunications, water, gas,
25 oil, petroleum products, coal or other mineral slurry, steam, heat,
26 light, chemicals, air, sewage, drainage not connected with an airport
27 drainage system, irrigation, or another substance; "utility facility"
28 also includes a system for furnishing transportation of goods or
29 persons by means of a railway, tramway, cableway, conveyor, flume,

1 canal, tunnel, pipeline, or a similar means.

2 * Sec. 3. AS 19.25.200 is amended to read:

3 Sec. 19.25.200. ENCROACHMENT PERMITS. An encroachment may be
4 constructed, placed, changed, or maintained across or along a highway,
5 but only in accordance with regulations adopted by the department. An
6 [NO] encroachment may not be constructed, placed, maintained, or
7 changed until it is [DULY] authorized by a written permit issued by
8 the department, unless the department provides otherwise by regula-
9 tion.

10 * Sec. 4. AS 19.45.001(12) is repealed and reenacted to read:

11 (12) "utility" includes a corporation, company, individual,
12 or association of individuals, or a lessee, trustee, or court-appoint-
13 ed receiver, that owns, operates, manages, or controls a line, plant,
14 pipeline, or system for furnishing, producing, generating, transmit-
15 ting, or distributing power, electricity, communications, telecommu-
16 nications, water, gas, oil, petroleum products, coal or other mineral
17 slurry, steam, heat, light, chemicals, air, sewage, drainage not
18 connected with highway drainage, irrigation, or similar products
19 including publicly owned fire and police signal systems and street
20 lighting systems that directly or indirectly serve the public or a
21 segment of the public; "utility" also includes a corporation, company,
22 individual, or association of individuals, or a lessee, trustee, or
23 court-appointed receiver that owns, operates, manages, or controls a
24 system for furnishing transportation of goods or persons by means of a
25 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,
26 or a similar means;

27 * Sec. 5. AS 19.45.001 is amended by adding a new paragraph to read:

28 (14) "utility facility" includes poles, plants, lines,
29 trenches, bridges, utilidors, tunnels, pipelines, and any other system

1 for furnishing, producing, generating, transmitting, or distributing
2 power, electricity, communications, telecommunications, water, gas,
3 oil, petroleum products, coal or other mineral slurry, steam, heat,
4 light, chemicals, air, sewage, drainage not connected with a highway
5 drainage system, irrigation, or another substance; "utility facility"
6 also includes a system for furnishing transportation of goods or
7 persons by means of railway, tramway, cableway, conveyor, flume,
8 canal, tunnel, pipeline, or a similar means.

9 * Sec. 6. AS 35.10 is amended by adding new sections to read:

10 ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.

11 Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES. A
12 utility facility may be constructed, placed, or maintained across,
13 along, over, under, or within a state public facility only in accor-
14 dance with regulations adopted or procedures prescribed by the depart-
15 ment and only if authorized by a written permit issued by the depart-
16 ment.

17 Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO
18 PUBLIC FACILITY PROJECTS. (a) If, incident to the construction of a
19 public facility project, the department determines and orders that a
20 utility facility located across, along, over, under, or within a state
21 public facility must be changed, relocated, or removed, the utility
22 owning or maintaining the facility shall change, relocate, or remove
23 it in accordance with the order, within a reasonable time set by the
24 department in the order.

25 (b) If the utility facility is not changed, relocated, or re-
26 moved in accordance with the order, a permit authorizing the utility
27 issued by the department under AS 35.10.210 becomes invalid and the
28 facility will be considered an unauthorized encroachment subject to
29 the provisions of AS 35.10.270.

1 (c) The cost of change, relocation, or removal, as defined in
2 AS 35.25.020, ordered under (a) of this section is to be paid as
3 follows:

4 (1) by the department as a cost of public facility con-
5 struction, provided that the utility facility is properly installed in
6 accordance with a permit, or in the absence of a permit, was installed
7 before the effective date of this Act in the proper location in accor-
8 dance with department regulations;

9 (2) by the utility in all other cases.

10 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be
11 constructed, placed, changed, or maintained across or within a public
12 facility, but only in accordance with regulations or procedures adopt-
13 ed by the department. An encroachment may not be constructed, placed,
14 maintained, or changed until it is authorized by a written permit
15 issued by the department, unless the department provides otherwise by
16 regulation.

17 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,
18 incidental to the construction or maintenance of a state public facil-
19 ity, the department determines and orders that an encroachment pre-
20 viously authorized by written permit must be changed, relocated, or
21 removed, the owner of the encroachment shall change, relocate, or
22 remove it within a reasonable time set by the department in the order.
23 The cost of the change, relocation, or removal shall be paid as pro-
24 vided in AS 35.10.220(c). If the owner does not change, relocate, or
25 remove an encroachment within the time set by the department, the
26 encroachment will be considered an unauthorized encroachment and
27 subject to the provisions of AS 35.10.270.

28 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized
29 encroachment exists in, on, under, or over a state public facility,

1 the department may require the removal of the encroachment, at the
2 expense of the owner, in the manner provided in AS 35.10.260 -
3 35.10.270.

4 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.
5 Notice shall be given the owner, occupant, or person in possession of
6 an unauthorized encroachment, or to another person causing or per-
7 mitting the encroachment to exist, by serving upon any of them a
8 notice demanding the removal of the encroachment within a time limit
9 set by the department. The notice shall describe the encroachment
10 with reasonable certainty as to its character and location. Service
11 of the notice may be made by certified mail.

12 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.
13 After a failure of the owner of an unauthorized encroachment to comply
14 with the notice or order of the department under AS 35.10.220, 35.10.-
15 240, or 35.10.260, the department may remove the encroachment, or
16 cause it to be removed. The owner of the unauthorized encroachment
17 shall pay to the department

18 (1) the expense of the removal of the encroachment;

19 (2) all costs and expenses paid by the state as a result of
20 a claim or claims filed against the state by third parties for damages
21 due to delays because the encroachment was not changed, removed, or
22 relocated according to the order of the department; and

23 (3) costs and expense of suit.

24 * Sec. 7. AS 35.25.020 is repealed and reenacted to read:

25 Sec. 35.25.020. DEFINITIONS. In this title, unless the context
26 requires otherwise,

27 (1) "construction" or a derivative of the term "construc-
28 tion" means construction, reconstruction, alteration, improvement, or
29 major repair;

1 (2) "cost of change, relocation, or removal" means the
2 entire cost incurred by the utility properly attributed to the change,
3 relocation, or removal of a facility, less any costs for improvements
4 or upgrading over and above the cost of a functionally equal facility;
5 if a facility is to be relocated and replaced with new equipment,
6 there shall also be subtracted from the entire cost any salvage value
7 derived from the old facility;

8 (3) "department " means the Department of Transportation and
9 Public Facilities;

10 (4) "encroachment" includes a tower, pole, poleline, pipe,
11 pipeline, driveway, private road, fence, billboard, stand or building,
12 or a structure or object of any kind that is or has been placed in,
13 on, under, or over a portion of a public facility;

14 (5) "maintenance" means the preservation of each type of
15 facility as nearly as possible in its original condition as construct-
16 ed, or as improved;

17 (6) "public building" means a building owned or controlled
18 and held by the state for government or public use;

19 (7) "public facility" or "public work" means a structure or
20 project constructed or maintained by the department except airports
21 and highways, and includes public buildings, boat harbors, port facil-
22 ities, dikes, jetties, and breakwaters;

23 (8) "utility" includes a corporation, company, individual,
24 or association of individuals, or a lessee, trustee, or court-appoint-
25 ed receiver, that owns, operates, manages, or controls a line, plant,
26 pipeline, or system for furnishing, producing, generating, transmit-
27 ting, or distributing power, electricity, communications, telecommu-
28 nications, water, gas, oil, petroleum products, coal or other mineral
29 slurry, steam, heat, light, chemicals, air, sewage, drainage not

1 connected with public facility drainage, irrigation, or similar prod-
2 ucts including publicly owned fire and police signal systems and
3 street lighting systems that directly or indirectly serve the public
4 or a segment of the public; "utility" also includes a corporation,
5 company, individual, or association of individuals, or a lessee,
6 trustee, or court-appointed receiver that owns, operates, manages, or
7 controls any system for furnishing transportation of goods or persons
8 by means of a railway, tramway, cableway, conveyor, flume, canal,
9 tunnel, pipeline, or a similar means;

10 (9) "utility facility" includes poles, plants, lines,
11 trenches, bridges, utilidors, tunnels, pipelines, and any other system
12 for furnishing, producing, generating, transmitting, or distributing
13 power, electricity, communications telecommunications, water, gas,
14 oil, petroleum products, coal or other mineral slurry, steam, heat,
15 light, chemicals, air, sewage, drainage not connected with a public
16 facility drainage system, irrigation, or another substance; "utility
17 facility" also includes a system for furnishing transportation of
18 goods or persons by means of a railway, tramway, cableway, conveyor,
19 flume, canal, tunnel, pipeline, or a similar means.

20 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).

Introduced: 2/1/85
Referred: Community & Regional
Affairs, Transportation and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 159

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 utilities and encroachments in
7 state airports, public facilities, and highways; and
8 providing for an effective date."

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

10 * Section 1. AS 02.15 is amended by adding new sections to article 2 to
11 read:

12 Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-
13 ity may be constructed, placed, or maintained across, along, over,
14 under, or within a state airport only in accordance with regulations
15 adopted or procedures prescribed by the department and only if au-
16 thoriz d by a written permit issued by the department.

17 Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO
18 AIRPORT PROJECTS. (a) If, incident to the construction of an airport
19 project, the department determines and orders that a utility facility
20 located across, along, over, under, or within a state airport must be
21 changed, relocated, or removed, the utility owning or maintaining the
22 facility must change, relocate, or remove it in accordance with the
23 order, within a reasonable time set by the department in the order.

24 (b) If the utility facility is not changed, relocated, or
25 removed in accordance with the order, any permit authorizing the
26 facility issued by the department under AS 02.15.102 becomes invalid
27 and the facility will be considered an unauthorized encroachment
28 subject to the provisions of AS 02.15.114.

29 (c) The cost of change, relocation, or removal, as defined in

1 AS 02.15.260(15), ordered under (a) of this section is to be paid as
2 follows:

3 (1) by either the department as a cost of airport construc-
4 tion, or by the utility, depending on the terms of the utility permit;

5 (2) by the utility if there is no utility permit issued for
6 the utility facility;

7 (3) by the utility if the utility facility is not installed
8 in the location provided for in the utility permit, regardless of
9 whether the utility permit requires payment by the department.

10 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be
11 constructed, placed, changed, or maintained across or within an air-
12 port, but only in accordance with regulations or procedures adopted by
13 the department. No encroachment may be constructed, placed, main-
14 tained, or changed until it is authorized by a written permit issued
15 by the department, unless the department provides otherwise by regula-
16 tion.

17 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If,
18 incidental to the construction or maintenance of a state airport the
19 department determines and orders that an encroachment previously
20 authorized by written permit must be changed, relocated, or removed,
21 the owner of the encroachment shall change, relocate, or remove it
22 within a reasonable time set by the department in the order. The cost
23 of the change, relocation, or removal shall be paid as provided in
24 AS 02.15.104(c). If the owner does not change, relocate, or remove an
25 encroachment within the time set by the department, the encroachment
26 will be considered an unauthorized encroachment and subject to the
27 provisions of AS 02.15.114.

28 Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized
29 encroachment exists in, on, under, or over a state airport the

1 department may require the removal of the encroachment, at the expense
2 of the owner, in the manner provided in AS 02.15.112 -- 02.15.114.

3 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.
4 Notice shall be given the owner, occupant, or person in possession of
5 an unauthorized encroachment, or to any other person causing or per-
6 mitting the encroachment to exist, by serving upon any of them a
7 notice demanding the removal of the encroachment within a time limit
8 set by the department. The notice shall describe the encroachment
9 with reasonable certainty as to its character and location. Service
10 of the notice may be made by certified mail.

11 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;
12 REMOVAL EXPENSE. After a failure of the owner of an unauthorized
13 encroachment to comply with a notice or order of the department under
14 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the
15 encroachment, or cause it to be removed. The owner of the unauthor-
16 ized encroachment shall pay to the department

- 17 (1) the expense of the removal of the encroachment;
18 (2) all costs and expenses paid by the state as a result of
19 a claim or claims filed against the state by third parties for damages
20 due to delays because the encroachment was not changed, removed, or
21 relocated according to the order of the department; and
22 (3) costs and expense of suit.

23 Sec. 02.15.116. SUMMARY REMOVAL. The department may at any time
24 and without notice remove from a state airport an encroachment or
25 utility facility which obstructs or prevents the use of the airport by
26 the public, or interferes with the safe operation of the airport.

27 * Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

- 28 (15) "cost of change, relocation, or removal" means the
29 entire cost incurred by the utility properly attributed to the change,

1 relocation, or removal of a facility, less any costs for improvements
2 or upgrading over and above the cost of a functionally equal facility;
3 if a facility is to be relocated and replaced with new equipment,
4 there shall also be subtracted from the entire cost any salvage value
5 derived from the old facility;

6 (16) "encroachment" includes a tower, pole, poleline, pipe,
7 pipeline, driveway, private road, fence, billboard, stand or building,
8 or structure or object of any kind which is or has been placed in, on,
9 under, or over a portion of an airport;

10 (17) "utility" includes any corporation, company, individu-
11 al, or association of individuals, or any lessee, trustee, or court-
12 appointed receiver, that owns, operates, manages, or controls any
13 line, plant, pipeline, or system for furnishing, producing, generat-
14 ing, transmitting, or distributing power, electricity, communications,
15 telecommunications, water, gas, oil, petroleum products, coal or other
16 mineral slurry, steam, heat, light, chemicals, air, sewage, drainage
17 not connected with airport drainage, irrigation, or similar products
18 including publicly owned fire and police signal systems and street
19 lighting systems which directly or indirectly serve the public or a
20 segment of the public; "utility" also includes any corporation, compa-
21 ny, individual, or association of individuals, or any lessee, trustee,
22 or court-appointed receiver that owns, operates, manages, or controls
23 any system for furnishing transportation of goods or persons by means
24 of a railway, tramway, cableway, conveyor, flume, canal, tunnel,
25 pipeline, or a similar means;

26 (18) "utility facility" includes poles, plants, lines,
27 trenches, bridges, utilidors, tunnels, pipelines, and any other system
28 for furnishing, producing, generating, transmitting, or distributing
29 power, electricity, communications, telecommunications, water, gas,

1 oil, petroleum products, coal or other mineral slurry, steam, heat,
2 light, chemicals, air, sewage, drainage not connected with an airport
3 drainage system, irrigation, or any other substance; "utility facili-
4 ty" also includes any system for furnishing transportation of goods or
5 persons by means of a railway, tramway, cableway, conveyor, flume,
6 canal, tunnel, pipeline, or a similar means.

7 * Sec. 3. AS 19.25.200 is amended to read:

8 Sec. 19.25.200. ENCROACHMENT PERMITS. An encroachment may be
9 constructed, placed, changed, or maintained across or along a highway,
10 but only in accordance with regulations adopted by the department. No
11 encroachment may be constructed, placed, maintained, or changed until
12 it is [DULY] authorized by a written permit issued by the department,
13 unless the department provides otherwise by regulation.

14 * Sec. 4. AS 19.45.001(12) is repealed and reenacted to read:

15 (12) "utility" includes any corporation, company, individu-
16 al, or association of individuals, or any lessee, trustee, or court-
17 appointed receiver, that owns, operates, manages, or controls any
18 line, plant, pipeline, or system for furnishing, producing, generat-
19 ing, transmitting, or distributing power, electricity, communications,
20 telecommunications, water, gas, oil, petroleum products, coal or other
21 mineral slurry, steam, heat, light, chemicals, air, sewage, drainage
22 not connected with highway drainage, irrigation, or similar products
23 including publicly owned fire and police signal systems and street
24 lighting systems which directly or indirectly serve the public or a
25 segmen. of the public; "utility" also includes any corporation, compa-
26 ny, individual, or association of individuals, or any lessee, trustee,
27 or court-appointed receiver that owns, operates, manages, or controls
28 any system for furnishing transportation of goods or persons by means
29 of a railway, tramway, cableway, conveyor, flume, canal, tunnel,

1 pipeline, or a similar means;

2 * Sec. 5. AS 19.45.001 is amended by adding a new paragraph to read:

3 (14) "utility facility" includes poles, plants, lines,
4 trenches, bridges, utilidors, tunnels, pipelines, and any other system
5 for furnishing, producing, generating, transmitting, or distributing
6 power, electricity, communications, tele-ommunications, water, gas,
7 oil, petroleum products, coal or other mineral slurry, steam, heat,
8 light, chemicals, air, sewage, drainage not connected with a highway
9 drainage system, irrigation, or any other substance; "utility facili-
10 ty" also includes any system for furnishing transportation of goods or
11 persons by means of railway, tramway, cableway, conveyor, flume,
12 canal, tunnel, pipeline, or a similar means.

13 * Sec. 6. AS 35.10 is amended by adding new sections to read:

14 ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.

15 Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES. A
16 utility facility may be constructed, placed, or maintained across,
17 along, over, under, or within a state public facility only in accor-
18 dance with regulations adopted or procedures prescribed by the depart-
19 ment and only if authorized by a written permit issued by the depart-
20 ment.

21 Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO
22 PUBLIC FACILITY PROJECTS. (a) If, incident to the construction of a
23 public facility project, the department determines and orders that a
24 utility facility located across, along, over, under, or within a state
25 public facility must be changed, relocated, or removed, the utility
26 owning or maintaining the facility must change, relocate, or remove it
27 in accordance with the order, within a reasonable time set by the
28 department in the order.

29 (b) If the utility facility is not changed, relocated, or

1 removed in accordance with the order, any permit authorizing the
2 utility issued by the department under AS 35.10.210 becomes invalid
3 and the facility will be considered an unauthorized encroachment
4 subject to the provisions of AS 35.10.270.

5 (c) The cost of change, relocation, or removal, as defined in
6 AS 35.25.020(2), ordered under (a) of this section is to be paid as
7 follows:

8 (1) by either the department as a cost of public facility
9 construction, or by the utility, depending on the terms of the utility
10 permit;

11 (2) by the utility if there is no utility permit issued for
12 the utility facility;

13 (3) by the utility if the utility facility is not installed
14 in the location provided for in the utility permit, regardless of
15 whether the utility permit requires payment by the department.

16 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be
17 constructed, placed, changed, or maintained across or within a public
18 facility, but only in accordance with regulations or procedures adopt-
19 ed by the department. No encroachment may be constructed, placed,
20 maintained, or changed until it is authorized by a written permit
21 issued by the department, unless the department provides otherwise by
22 regulation.

23 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,
24 incidental to the construction or maintenance of a state public facil-
25 ity, the department determines and orders that an encroachment pre-
26 viously authorized by written permit must be changed, relocated, or
27 removed, the owner of the encroachment shall change, relocate, or
28 remove it within a reasonable time set by the department in the order.
29 The cost of the change, relocation, or removal shall be paid as

1 provided in AS 35.10.220(c). If the owner does not change, relocate,
2 or remove an encroachment within the time set by the department, the
3 encroachment will be considered an unauthorized encroachment and
4 subject to the provisions of AS 35.10.270.

5 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized
6 encroachment exists in, on, under, or over a state public facility,
7 the department may require the removal of the encroachment, at the
8 expense of the owner, in the manner provided in AS 35.10.260 --
9 35.10.270.

10 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.
11 Notice shall be given the owner, occupant, or person in possession of
12 an unauthorized encroachment, or to any other person causing or per-
13 mitting the encroachment to exist, by serving upon any of them a
14 notice demanding the removal of the encroachment within a time limit
15 set by the department. The notice shall describe the encroachment
16 with reasonable certainty as to its character and location. Service
17 of the notice may be made by certified mail.

18 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.
19 After a failure of the owner of an unauthorized encroachment to comply
20 with the notice or order of the department under AS 35.10.220, 35.10.-
21 240, or 35.10.260, the department may remove the encroachment, or
22 cause it to be removed. The owner of the unauthorized encroachment
23 shall pay to the department

24 (1) the expense of the removal of the encroachment;

25 (2) all costs and expenses paid by the state as a result of
26 a claim or claims filed against the state by third parties for damages
27 due to delays because the encroachment was not changed, removed, or
28 relocated according to the order of the department; and

29 (3) costs and expense of suit.

1 Sec. 35.10.280. SUMMARY REMOVAL. The department may at any time
2 and without notice remove from a state public facility an encroachment
3 or a utility facility which obstructs or prevents the use of the
4 public facility by the public, or interferes with the safe operation
5 of the public facility.

6 * Sec. 7. AS 35.25.020 is repealed and reenacted to read:

7 Sec. 35.25.020. DEFINITIONS. In this title, unless the context
8 requires otherwise,

9 (1) "construction" or any derivative of the term "con-
10 struction" means construction, reconstruction, alteration, improve-
11 ment, or major repair;

12 (2) "cost of change, relocation, or removal" means the
13 entire cost incurred by the utility properly attributed to the change,
14 relocation, or removal of a facility, less any costs for improvements
15 or upgrading over and above the cost of a functionally equal facility;
16 if a facility is to be relocated and replaced with new equipment,
17 there shall also be subtracted from the entire cost any salvage value
18 derived from the old facility;

19 (3) "department" means the Department of Transportation and
20 Public Facilities;

21 (4) "encroachment" includes a tower, pole, poleline, pipe,
22 pipeline, driveway, private road, fence, billboard, stand or building,
23 or a structure or object of any kind which is or has been placed in,
24 on, under, or over a portion of a public facility;

25 (5) "excess lands" means lands acquired for the state in
26 excess of land required for a public facility, when the remaining
27 portion of a parcel of land acquired is left in a shape or condition
28 as to be of little or no value to its owner, or to give rise to claims
29 or litigation concerning severance or other damage;

1 (6) "maintenance" means the preservation of each type of
2 facility as nearly as possible in its original condition as construct-
3 ed, or as improved;

4 (7) "public building" means a building owned or controlled
5 and held by the state for government or public use;

6 (8) "public facility" or "public work" means any structure
7 or project constructed or maintained by the department except airports
8 and highways, and includes public buildings, boat harbors, port facil-
9 ities, dikes, jetties, and breakwaters;

10 (9) "utility" includes any corporation, company, individu-
11 al, or association of individuals, or any lessee, trustee, or court-
12 appointed receiver, that owns, operates, manages, or controls any
13 line, plant, pipeline, or system for furnishing, producing, generat-
14 ing, transmitting, or distributing power, electricity, communications,
15 telecommunications, water, gas, oil, petroleum products, coal or other
16 mineral slurry, steam, heat, light, chemicals, air, sewage, drainage
17 not connected with public facility drainage, irrigation, or similar
18 products including publicly owned fire and police signal systems and
19 street lighting systems which directly or indirectly serve the public
20 or a segment of the public; "utility" also includes any corporation,
21 company, individual, or association of individuals, or any lessee,
22 trustee, or court-appointed receiver that owns, operates, manages, or
23 controls any system for furnishing transportation of goods or persons
24 by means of a railway, tramway, cableway, conveyor, flume, canal,
25 tunnel, pipeline, or a similar means;

26 (10) "utility facility" includes poles, plants, lines,
27 trenches, bridges, utilidors, tunnels, pipelines, and any other system
28 for furnishing, producing, generating, transmitting, or distributing
29 power, electricity, communications, telecommunications, water, gas,

1 oil, petroleum products, coal or other mineral slurry, steam, heat,
2 light, chemicals, air, sewage, drainage not connected with a public
3 facility drainage system, irrigation, or any other substance; "utility
4 facility" also includes any system for furnishing transportation of
5 goods or persons by means of a railway, tramway, cableway, conveyor,
6 flume, canal, tunnel, pipeline, or a similar means.

7 * Sec. 8. This Act takes effect July 1, 1985.

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

Revision Date : 3/6/86

REQUEST

Bill/Resolution No. : CSHB 160 (FIN)
 Title : Relocation of utilities
incident to highway projects
 Sponsor : Governor
 Requestor : House Finance Committee
 Date of Request : 3/6/86

FISCAL DETAIL

Agency Affected : DOT/PF
 BRU : Engineering, Operations
and Standards
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		0	0	0	0	0
TRAVEL		0	0	0	0	0
CONTRACTUAL		0	0	0	0	0
SUPPLIES		0	0	0	0	0
EQUIPMENT		0	0	0	0	0
LAND & STRUCTURES		0	0	0	0	0
GRANTS, CLAIMS		0	0	0	0	0
MISCELLANEOUS		0	0	0	0	0
TOTAL OPERATING		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE		0	0	0	0	0
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FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by : Al Adams, Chair Phone : 465-3706
 Division : House Finance Committee Date : 3/6/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

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

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 160 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to utilities and encroachments in
7 state airports, public facilities, and highways;
8 relocation of utilities; and providing for an effective
9 date."

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

11 * Section 1. AS 02.15 is amended by adding new sections to article 2 to
12 read:

13 Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-
14 ity may be constructed, placed, or maintained across, along, over,
15 under, or within a state airport only in accordance with regulations
16 adopted or procedures prescribed by the department and only if au-
17 thorized by a written permit issued by the department.

18 Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO
19 AIRPORT PROJECTS. (a) If, incident to the construction of an airport
20 project, the department determines and orders that a utility facility
21 located across, along, over, under, or within a state airport must be
22 changed, relocated, or removed, the utility owning or maintaining the
23 facility shall change, relocate, or remove it in accordance with the
24 order, within a reasonable time set by the department in the order.

25 (b) If the utility facility is not changed, relocated, or re-
26 moved in accordance with the order, any permit authorizing the facil-
27 ity issued by the department under AS 02.15.102 becomes invalid and
28 the facility will be considered an unauthorized encroachment subject
29 to the provisions of AS 02.15.114.

1 (c) The cost of change, relocation, or removal, as defined in
2 AS 02.15.260, ordered under (a) of this section is to be paid as
3 follows:

4 (1) by the department as a cost of airport construction, if
5 the utility facility is installed or authorized after the effective
6 date of this Act under a utility permit or a regulation and is in-
7 stalled in the location specified in the permit;

8 (2) by the department as a cost of airport construction, if
9 the facility was installed before the effective date of this Act under
10 a utility permit or utility easement and is in the location specified
11 in the permit or easement;

12 (3) by the department as a cost of airport construction, if
13 the utility facility was installed before the location became part of
14 a state airport or before permits were required;

15 (4) by the department as a cost of airport construction, if
16 the utility permit that requires the utility to pay the relocation
17 cost was issued more than five years before the contract for the
18 airport construction project was first advertised;

19 (5) by the utility in all other cases unless the commi-
20 sioner finds it is in the public interest for the cost to be paid by
21 the department.

22 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be
23 constructed, placed, changed, or maintained across or within an air-
24 port, but only in accordance with regulations or procedures adopted by
25 the department. An encroachment may not be constructed, placed, main-
26 tained, or changed until it is authorized by a written permit issued
27 by the department, unless the department provides otherwise by regula-
28 tion.

29 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If,

1 incidental to the construction or maintenance of a state airport the
2 department determines and orders that an encroachment previously
3 authorized by written permit must be changed, relocated, or removed,
4 the owner of the encroachment shall change, relocate, or remove it
5 within a reasonable time set by the department in the order. The cost
6 of the change, relocation, or removal shall be paid as provided in
7 AS 02.15.104(c). If the owner does not change, relocate, or remove an
8 encroachment within the time set by the department, the encroachment
9 will be considered an unauthorized encroachment subject to the pro-
10 visions of AS 02.15.114.

11 Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized
12 encroachment exists in, on, under, or over a state airport the depart-
13 ment may require the removal of the encroachment, at the expense of
14 the owner, in the manner provided in AS 02.15.112 - 02.15.114.

15 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.
16 Notice shall be given the owner, occupant, or person in possession of
17 an unauthorized encroachment, or to another person causing or per-
18 mitting the encroachment to exist, by serving upon any of them a
19 notice demanding the removal of the encroachment within a time limit
20 set by the department. The notice shall describe the encroachment
21 with reasonable certainty as to its character and location. Service
22 of the notice may be made by certified mail.

23 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;
24 REMOVAL EXPENSE. After a failure of the owner of an unauthorized
25 encroachment to comply with a notice or order of the department under
26 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the
27 encroachment, or cause it to be removed. The owner of the unauthor-
28 ized encroachment shall pay to the department

29 (1) the expense of the removal of the encroachment;

1 (2) all costs and expenses paid by the state as a result of
2 a claim or claims filed against the state by third parties for damages
3 due to delays because the encroachment was not changed, removed, or
4 relocated according to the order of the department; and

5 (3) costs and expense of suit.

6 * Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

7 (15) "cost of change, relocation, or removal" means the
8 entire cost incurred by the utility properly attributed to the change,
9 relocation, or removal of a facility, less the costs for improvements
10 or upgrading over and above the cost of a functionally equal facility;
11 if a facility is to be relocated and replaced with new equipment,
12 there shall also be subtracted from the entire cost the salvage value
13 derived from the old facility;

14 (16) "encroachment" includes a tower, pole, poleline, pipe,
15 pipeline, driveway, private road, fence, billboard, stand or building,
16 or structure or object of any kind that is or has been placed in, on,
17 under, or over a portion of an airport;

18 (17) "utility" includes a corporation, company, individual,
19 or association of individuals, or a lessee, trustee, or court-appoint-
20 ed receiver, that owns, operates, manages, or controls a line, plant,
21 pipeline, or system for furnishing, producing, generating, transmit-
22 ting, or distributing power, electricity, communications, telecommu-
23 nications, water, gas, oil, petroleum products, coal or other mineral
24 slurry, steam, heat, light, chemicals, air, sewage, drainage not
25 connected with airport drainage, irrigation, or similar products
26 including publicly owned fire and police signal systems and street
27 lighting systems that directly or indirectly serve the public or a
28 segment of the public; "utility" also includes a corporation, company,
29 individual, or association of individuals, or a lessee, trustee, or

1 court-appointed receiver that owns, operates, manages, or controls a
2 system for furnishing transportation of goods or persons by means of a
3 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,
4 or a similar means;

5 (18) "utility facility" includes poles, plants, lines,
6 trenches, bridges, utilidors, tunnels, pipelines, and any other system
7 for furnishing, producing, generating, transmitting, or distributing
8 power, electricity, communications, telecommunications, water, gas,
9 oil, petroleum products, coal or other mineral slurry, steam, heat,
10 light, chemicals, air, sewage, drainage not connected with an airport
11 drainage system, irrigation, or another substance; "utility facility"
12 also includes a system for furnishing transportation of goods or
13 persons by means of a railway, tramway, cableway, conveyor, flume,
14 canal, tunnel, pipeline, or a similar means.

15 * Sec. 3. AS 19.25.020(c) is amended to read:

16 (c) The cost of change, relocation, or removal necessitated by
17 highway construction is a cost of highway construction to be paid [BY
18 THE STATE] in accordance with AS 19.45.001(4) as follows:

19 (1) by the department as a cost of highway construction, if
20 the utility facility is installed or authorized under a utility permit
21 or a regulation after the effective date of this Act and is installed
22 in the location specified in the permit;

23 (2) by the department as a cost of highway construction, if
24 the facility was installed before the effective date of this Act under
25 a utility permit issued on or after July 1, 1960, and is in the loca-
26 tion specified in the permit;

27 (3) by the department as a cost of highway construction, if
28 the utility facility was installed before July 1, 1960, or before the
29 road became part of the state highway system;

1 (4) by the department as a cost of highway construction, if
2 the utility permit that requires the utility to pay the relocation
3 cost was issued more than five years before the contract for the
4 highway construction project was first advertised;

5 (5) by the utility in all other cases, unless the commis-
6 sioner finds it is in the public interest for the cost to be paid by
7 the department [, NOTWITHSTANDING THE TERMS OR PROVISIONS OF ANY
8 EXISTING PERMIT, AGREEMENT, REGULATION OR STATUTE TO THE CONTRARY].

9 * Sec. 4. AS 19.25.200 is amended to read:

10 Sec. 19.25.200. ENCROACHMENT PERMITS. (a) An encroachment may
11 be constructed, placed, changed, or maintained across or along a
12 highway, but only in accordance with regulations adopted by the de-
13 partment. An [NO] encroachment may not be constructed, placed, main-
14 tained, or changed until it is [DULY] authorized by a written permit
15 issued by the department, unless the department provides otherwise by
16 regulation.

17 (b) The provisions under (a) of this section do not apply to a
18 mailbox or a newspaper box attached to a mailbox.

19 * Sec. 5. AS 19.45.001(12) is repealed and reenacted to read:

20 (12) "utility" includes a corporation, company, individual,
21 or association of individuals, or a lessee, trustee, or court-appointed
22 receiver, that owns, operates, manages, or controls a line, plant,
23 pipeline, or system for furnishing, producing, generating, transmit-
24 ting, or distributing power, electricity, communications, telecommu-
25 nications, water, gas, oil, petroleum products, coal or other mineral
26 slurry, steam, heat, light, chemicals, air, sewage, drainage not
27 connected with highway drainage, irrigation, or similar products
28 including publicly owned fire and police signal systems and street
29 lighting systems that directly or indirectly serve the public or a

1 segment of the public; "utility" also includes a corporation, company,
2 individual, or association of individuals, or a lessee, trustee, or
3 court-appointed receiver that owns, operates, manages, or controls a
4 system for furnishing transportation of goods or persons by means of a
5 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,
6 or a similar means;

7 * Sec. 6. AS 19.45.001 is amended by adding a new paragraph to read:

8 (14) "utility facility" includes poles, plants, lines,
9 trenches, bridges, utilidors, tunnels, pipelines, and any other system
10 for furnishing, producing, generating, transmitting, or distributing
11 power, electricity, communications, telecommunications, water, gas,
12 oil, petroleum products, coal or other mineral slurry, steam, heat,
13 light, chemicals, air, sewage, drainage not connected with a highway
14 drainage system, irrigation, or another substance; "utility facility"
15 also includes a system for furnishing transportation of goods or
16 persons by means of railway, tramway, cableway, conveyor, flume,
17 canal, tunnel, pipeline, or a similar means.

18 * Sec. 7. AS 35.10 is amended by adding new sections to read:

19 **ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.**

20 **Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES.** A
21 utility facility may be constructed, placed, or maintained across,
22 along, over, under, or within a state public facility only in accor-
23 dance with regulations adopted or procedures prescribed by the depart-
24 ment and only if authorized by a written permit issued by the depart-
25 ment.

26 **Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO**
27 **PUBLIC FACILITY PROJECTS.** (a) If, incident to the construction of a
28 public facility project, the department determines and orders that a
29 utility facility located across, along, over, under, or within a state

1 public facility must be changed, relocated, or removed, the utility
2 owning or maintaining the facility shall change, relocate, or remove
3 it in accordance with the order, within a reasonable time set by the
4 department in the order.

5 (b) If the utility facility is not changed, relocated, or re-
6 moved in accordance with the order, a permit authorizing the utility
7 issued by the department under AS 35.10.210 becomes invalid and the
8 facility will be considered an unauthorized encroachment subject to
9 the provisions of AS 35.10.270.

10 (c) The cost of change, relocation, or removal, as defined in
11 AS 35.25.020, ordered under (a) of this section is to be paid as
12 follows:

13 (1) by the department as a cost of public facility con-
14 struction, if the utility facility is installed or authorized after
15 the effective date of this Act under a utility permit or a regulation
16 and is installed in the location specified in the permit;

17 (2) by the department as a cost of public facility con-
18 struction, if the facility was installed before the effective date of
19 this Act under a utility permit and is in the location specified in
20 the permit;

21 (3) by the department as a cost of public facility con-
22 struction, if the utility facility was installed before the location
23 became a state public facility or before permits were required;

24 (4) by the department as a cost of public facility
25 construction, if the utility permit that requires the utility to pay
26 the relocation cost was issued more than five years before the
27 contract for the public facility construction project was first
28 advertised;

29 (5) by the utility in all other cases unless the

1 commissioner finds it is in the public interest for the cost to be
2 paid by the department.

3 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be
4 constructed, placed, changed, or maintained across or within a public
5 facility, but only in accordance with regulations or procedures adopt-
6 ed by the department. An encroachment may not be constructed, placed,
7 maintained, or changed until it is authorized by a written permit
8 issued by the department, unless the department provides otherwise by
9 regulation.

10 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,
11 incidental to the construction or maintenance of a state public facil-
12 ity, the department determines and orders that an encroachment pre-
13 viously authorized by written permit must be changed, relocated, or
14 removed, the owner of the encroachment shall change, relocate, or
15 remove it within a reasonable time set by the department in the order.
16 The cost of the change, relocation, or removal shall be paid as pro-
17 vided in AS 35.10.220(c). If the owner does not change, relocate, or
18 remove an encroachment within the time set by the department, the
19 encroachment will be considered an unauthorized encroachment and
20 subject to the provisions of AS 35.10.270.

21 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized
22 encroachment exists in, on, under, or over a state public facility,
23 the department may require the removal of the encroachment, at the
24 expense of the owner, in the manner provided in AS 35.10.260 - 35.10.-
25 270. .

26 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.
27 Notice shall be given the owner, occupant, or person in possession of
28 an unauthorized encroachment, or to another person causing or per-
29 mitting the encroachment to exist, by serving upon any of them a

1 notice demanding the removal of the encroachment within a time limit
2 set by the department. The notice shall describe the encroachment
3 with reasonable certainty as to its character and location. Service
4 of the notice may be made by certified mail.

5 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.
6 After a failure of the owner of an unauthorized encroachment to comply
7 with the notice or order of the department under AS 35.10.220, 35.10.-
8 240, or 35.10.260, the department may remove the encroachment, or
9 cause it to be removed. The owner of the unauthorized encroachment
10 shall pay to the department

11 (1) the expense of the removal of the encroachment;

12 (2) all costs and expenses paid by the state as a result of
13 a claim or claims filed against the state by third parties for damages
14 due to delays because the encroachment was not changed, removed, or
15 relocated according to the order of the department; and

16 (3) costs and expense of suit.

17 * Sec. 8. AS 35.25.020 is repealed and reenacted to read:

18 Sec. 35.25.020. DEFINITIONS. In this title, unless the context
19 requires otherwise,

20 (1) "construction" or a derivative of the term "construc-
21 tion" means construction, reconstruction, alteration, improvement, or
22 major repair;

23 (2) "cost of change, relocation, or removal" means the
24 entire cost incurred by the utility properly attributed to the change,
25 relocation, or removal of a facility, less any costs for improvements
26 or upgrading over and above the cost of a functionally equal facility;
27 if a facility is to be relocated and replaced with new equipment,
28 there shall also be subtracted from the entire cost any salvage value
29 derived from the old facility;

1 (3) "department" means the Department of Transportation and
2 Public Facilities;

3 (4) "encroachment" includes a tower, pole, poleline, pipe,
4 pipeline, driveway, private road, fence, billboard, stand or building,
5 or a structure or object of any kind that is or has been placed in,
6 on, under, or over a portion of a public facility;

7 (5) "maintenance" means the preservation of each type of
8 facility as nearly as possible in its original condition as construct-
9 ed, or as improved;

10 (6) "public building" means a building owned or controlled
11 and held by the state for government or public use;

12 (7) "public facility" or "public work" means a structure or
13 project constructed or maintained by the department except airports
14 and highways, and includes public buildings, boat harbors, port facil-
15 ities, dikes, jetties, and breakwaters;

16 (8) "utility" includes a corporation, company, individual,
17 or association of individuals, or a lessee, trustee, or court-appoint-
18 ed receiver, that owns, operates, manages, or controls a line, plant,
19 pipeline, or system for furnishing, producing, generating, transmit-
20 ting, or distributing power, electricity, communications, telecommu-
21 nications, water, gas, oil, petroleum products, coal or other mineral
22 slurry, steam, heat, light, chemicals, air, sewage, drainage not
23 connected with public facility drainage, irrigation, or similar prod-
24 ucts including publicly owned fire and police signal systems and
25 street lighting systems that directly or indirectly serve the public
26 or a segment of the public; "utility" also includes a corporation,
27 company, individual, or association of individuals, or a lessee,
28 trustee, or court-appointed receiver that owns, operates, manages, or
29 controls any system for furnishing transportation of goods or persons

1 by means of a railway, tramway, cableway, conveyor, flume, canal,
2 tunnel, pipeline, or a similar means;

3 (9) "utility facility" includes poles, plants, lines,
4 trenches, bridges, utilidors, tunnels, pipelines, and any other system
5 for furnishing, producing, generating, transmitting, or distributing
6 power, electricity, communications, telecommunications, water, gas,
7 oil, petroleum products, coal or other mineral slurry, steam, heat,
8 light, chemicals, air, sewage, drainage not connected with a public
9 facility drainage system, irrigation, or another substance; "utility
10 facility" also includes a system for furnishing transportation of
11 goods or persons by means of a railway, tramway, cableway, conveyor,
12 flume, canal, tunnel, pipeline, or a similar means.

13 * Sec. 9. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).
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Applicable regs

17 AAC 15.021. APPLICATION FOR UTILITY PERMIT. (a) Application for issuance of a utility permit must be made on a form prescribed by the department.

(b) The application must describe in detail the type of facility and its proposed location within the department right-of-way or other location. The application must include plans, specifications, and other pertinent data. A diagram or drawing showing the location of all known overhead, surface, and underground facilities existing in the vicinity of the proposed facility must also be included with the application.

(c) If a utility facility covered by an existing permit is to be reconstructed or modified substantially, the permittee shall apply for a new permit. If the proposed modifications are not substantial, the permittee need only apply for an amended permit. In either case the application must comply with (b) of this section.

17 AAC 15.181. UTILITY ACCOMMODATION ON RURAL HIGHWAYS AND ROADS.

(a) Longitudinal utility facilities located within the rights-of-way of rural highways and roads must meet the following minimum offset requirements:

Minimum distance in feet	Posted Roadway Speed in Miles Per Hour			
	above 50	40 to 50	30 to 39	below 30
	30	20	10	5

(i) "Offset," as used in (a) of this section, is measured from the edge of the traveled way to the nearest surface of a surface-mounted facility.

public parks, recreation areas, wildlife and waterfowl refuges, and historic sites. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	

17 AAC 15.200. SPECIAL PROVISIONS AND/OR STIPULATIONS. Repealed 5/23/82.

→ **17 AAC 15.201. OVERHEAD CLEARANCES.**

The minimum vertical clearance between an overhead facility and a department right-of-way must comply with the requirements of the 1981 edition of the National Electrical Safety Code. New or relocated facilities should be installed with a minimum clearance of 20 feet. In no case may the minimum vertical clearance be less than 18 feet. (Eff. 5/23/82, Reg. 32)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	

17 AAC 15.210. SPECIAL USE PERMITS FOR HIGHWAYS. Repealed 5/23/82.

17 AAC 15.211. UNDERGROUND FACILITIES. (a) Longitudinal underground facilities on a uniform alignment may not be located closer than five feet from a department right-of-way, unless otherwise directed by the department. Longitudinal underground facilities may not be closer than 10 feet from the toe of fill or the top of cut, unless the utility can demonstrate to the department's satisfaction that the 10-foot requirement is not feasible and that a closer location will not adversely affect the design, construction, maintenance, safety, or operation of the highway or other department structure. Surface facilities must comply with the minimum distances requirements of 17 AAC 15.171 (d).

(b) Underground facility crossings must be installed by boring, coring, or jacking through the roadway prism. Wet-boring is not permitted. The department will, in its discretion, allow trenched or open-cut construction where untrenched construction is not practical. Underground facility crossings must be as nearly perpendicular to the highway centerline as practicable. Underground facility crossings in

other department rights-of-way must conform to the specifications set out in the special provisions of the utility permit.

(c) Encasement of underground facilities is required for crossings under controlled-access highways or other department rights-of-way unless an alternate proposal by the utility is approved by the department. Underground pipelines carrying flammable, corrosive, or other hazardous materials must be encased if required by the department. The department will, in its discretion, permit a utility bridge, tunnel, utilidor, or other mechanical protection in place of encasement.

→ (d) The depth of burial for underground facilities construction or installed under pavement, roadway, or runway surfaces must be at least four feet measured from the surface of the pavement, roadway, or runway to the top of the cable, conduit, pipeline, or encasement. Underground facilities constructed or installed under other surfaces, including unlined ditches, must be buried at least three feet, measured from the surface to the top of the cable, conduit, pipeline, or encasement.

(e) In areas of seasonally frozen soil or permafrost, the depth of burial must be such that any liquid transmitted will not freeze and so that any underground structure will withstand the increased impact loads transmitted through the frozen soil. The department will, in its discretion, allow the depth of burial to be reduced by the use of adequate insulation and protective materials or methods.

(f) The department will, in its discretion, require underground facilities to be rerouted or protected with casing or other mechanical protection when it is impractical to achieve the minimum depth of burial.

(g) When a utility locate service is not available, reference markers must be installed and maintained at both ends of underground facility highway crossings, at angle points in the alignment of the underground facilities, and at designated points along longitudinal alignments as specified in the special provisions of the utility permit. (Eff 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	

be roadside hazards. Facilities that have been determined to be roadside hazards must be relocated to conform with this chapter. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.180. FREQUENCY OF REQUESTED RELOCATION AND/OR ADJUSTMENTS. Repealed 5/23/82.

17 AAC 15.181. UTILITY ACCOMMODATION ON RURAL HIGHWAYS AND ROADS.

(a) Longitudinal utility facilities located within the rights-of-way of rural highways and roads must meet the following minimum offset requirements:

Minimum distance in feet	Posted Roadway Speed in Miles Per Hour			
	above 50	40 to 50	30 to 39	below 30
	30	20	10	5

(b) Existing longitudinal overhead facilities located within newly used highway rights-of-way may remain if the facilities meet the offset requirements of (a) of this section and are located at least three feet from the toe of fill or five feet from the top of cut. Facilities located within the rights-of-way of existing rural highways and roads may remain if they are at least three feet from the toe of fill or five feet from the top of cut and are not roadside hazards.

(c) Longitudinal overhead facilities to be constructed in highway rights-of-way must be located on a line not more than five feet from the highway right-of-way line or, when directed by the department, in accordance with the offset requirements of (a) of this section and at least 10 feet from the toe of fill or the top of cut.

(d) Existing overhead facilities crossing an existing or newly used highway right-of-way may remain if they are at least three feet from the toe of fill or five feet from the top of cut and are not roadside hazards.

(e) New overhead facilities crossing a highway right-of-way must be installed so that that part

of the facility nearest to the edge of the traveled way is located in accordance with the offset requirements of (a) of this section and is at least 10 feet from the toe of fill or the top of cut. These facilities must be as nearly perpendicular to the highway centerline as is practicable.

(f) New longitudinal surface-mounted facilities must be located not more than five feet from the right-of-way line or, when directed by the department, in accordance with the offset requirements of (a) of this section and at least 10 feet from the toe of fill or the top of cut.

(g) If the utility can demonstrate that adherence to the requirements of this section is impractical because of difficult topography, mountainous terrain, or other special conditions, the department will, in its discretion, modify the requirements.

(h) A facility determined by the department to be a roadside hazard must be relocated to conform to the requirements of this chapter.

(i) "Offset," as used in (a) of this section, is measured from the edge of the traveled way to the nearest surface of a surface-mounted facility. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.25.200
AS 19.05.040 AS 19.30.051
AS 19.20.010 AS 19.30.121
AS 19.25.010 AS 19.40.065

17 AAC 15.190. ERRORS IN FACILITY PLACEMENT BY PERMITTEE. Repealed 5/23/82.

17 AAC 15.191. UTILITY ACCOMMODATION IN SCENIC AREAS. (a) The department will, in its discretion, require utility facilities that are inconsistent with the values of scenic areas to be relocated.

(b) The installation, within scenic areas, of new utility facilities, including those required for department purposes, must be made in accordance with the directions of the department.

(c) "Scenic area," as used in (a) of this section, includes scenic strips, view points, rest areas, adjacent highway rights-of-way, and the portions of highway rights-of-way which pass through

determination, requirement, consent or approval under the lease shall be of any effect unless in writing and no consent or approval by the lessor under the lease shall be of any effect unless given by the commissioner or by such other state officer as may be designated by him. All notices required by the lease shall be sent by registered or certified mail or delivered personally addressed to the lessee or to the lessor as may be appropriate, at the respective addresses contained in the lease or at such other addresses as the parties may designate in writing from time to time.

(33) The lease will not be valid unless approved in writing by the commissioner or by such other state officer as may be designated by him. (In effect before 7/28/59; am 11/14/62, Reg. 7; am 6/10/64, Reg. 16; am 1/13/73, Reg. 44; am 4/27/79, Reg. 70)

Authority: AS 02.15.020 AS 02.15.100
AS 02.15.060 AS 02.15.220
AS 02.15.070 AS 02.15.230
AS 02.15.090

17 AAC 40.370. TERMINAL LEASE PROVISIONS. Following are provisions that, when applicable, will generally be included in all leases for space in airport terminal buildings in addition to applicable provisions from sec. 360 of this chapter:

(1) The lessee, at his own cost and expense, may

(A) furnish and construct or install improvements and interior partitions and doors within the premises which he may determine to be necessary for use in carrying out the purpose for which the lease is intended;

(B) furnish and install electrical wiring other than that provided by the state in the initial construction of the building;

provided, however that all construction or installation performed by the lessee will be subject to the prior approval of the airport manager who may require the submission of plans or specifications, or both.

(2) The lessee may not display any signs, advertising or similar matter without approval of the airport manager.

(3) The lessee shall maintain the premises in good repair and appearance and in a safe condition at all times; and do or cause to be done without delay all those things which, in the opinion of the airport manager, are necessary or desirable in the interest of safety or to maintain the premises in good repair and appearance.

(4) If the terminal building should be partially damaged by fire, earthquake or other casualty, but not rendered untenable, the charges and fees payable under the lease with respect to the space used by the lessee in common with others in such damaged premises will be proportionately reduced until such time as the premises are in order. If the damage should be so extensive as, in the determination of the department, to render the building untenable, the rent shall be paid up to the time of the destruction and thereupon the lease and all rights and obligations of the parties thereunder and the tenancy thereby created will wholly cease and expire.

(5) At the termination or expiration of the lease, unless otherwise agreed by the parties, all partitions, wiring and piping, and other improvements made or installed by the lessee will remain the property of, and will be removed by, the lessee leaving the premises in their original condition. (Eff. 1/13/73, Reg. 44)

Authority: AS 02.15.020 AS 02.15.090
AS 02.15.060 AS 02.15.220
AS 02.15.070 AS 02.15.230

17 AAC 40.380. UTILITY PERMIT PROVISIONS. Following are provisions that, when applicable, will generally be included in all permits for utilities or other underground installations in addition to applicable provisions from sec. 360 of this chapter:

(1) The permittee shall adequately compact all excavation backfill to prevent formation of depressions and shall repair on demand by the permittor any depressions or other surface irregularities that may appear within one year after completion of the installation permitted under the agreement.

(2) The permittor reserves the right to require that any improvements or any portion thereof placed through, on or above the premises be relocated at the expense of the

permittee when such relocation is determined to be necessary by the permittor. The determination shall be made on a reasonable basis and only for the purpose of expansion, relocation, or better utilization of facilities operated by the permittor.

(3) The agreement is granted with the mutual understanding that the airport manager or his designated representative shall represent the permittor in all matters regarding enforcement and compliance with all requirements, terms, and conditions provided in the agreement. In the event it becomes necessary to obstruct any street, taxiway, or other area provided for vehicular and/or aircraft traffic, the permittee shall obtain the approval of the airport manager at least 24 hours prior to placement of the obstruction. (Eff. 1/13/73, Reg. 44)

Authority: AS 02.15.020 AS 02.15.090
AS 02.15.060 AS 02.15.220
AS 02.15.070 AS 02.15.230

17 AAC 40.382. TERMINATION OF LEASES. Before the termination or cancellation of a lease or other interest granted under this chapter, the department will provide the lessee with notice and an opportunity to be heard. (Eff. 4/27/79, Reg. 70)

Authority: AS 02.15.020 AS 02.15.090
AS 02.15.060 AS 02.15.220
AS 02.15.070 AS 02.15.230

17 AAC 40.385. TIE-DOWN PERMITS. (a) Purpose. The purpose of this section is to regulate the issuance of annual permits for wheel and float plane tie-down space at Anchorage International Airport in a manner that

(1) provides a fair system for issuance and termination of permits;

(2) prevents the transfer of a permit by a permittee who no longer owns or uses the permittee's own aircraft on the tie-down space;

(3) provides permits for pilots who fly their own airworthy aircraft; and

(4) provides maximum use of available permits.

(b) Register. If available tie-down space is not

sufficient for demand, the airport director shall maintain a register of potential applicants for each type of tie-down permit. Each register is subject to the following rules:

(1) A permit must be issued from the applicable register on the basis of first come, first served. Each current register must be posted twice each year at the airport director's office, with copies available at cost to the public.

(2) To be added to a register, a potential applicant must sign the applicable register and pay a fee of \$25. Each potential applicant must pay a fee of \$25 per register by September 30 each year in order to remain on each register.

(3) Each potential applicant shall notify the airport director in writing of any change of address for each register. The airport director shall send any notice to the last address provided in writing by the potential applicant.

(4) A person who is a potential applicant and who claims to be incorrectly located on a register shall request a hearing from the airport director within six months after November 10, 1985, or the date the person signed the register, whichever is later.

(5) The airport director may request that a potential applicant verify his or her intent to remain on a register. The request must be in writing, and must be sent by certified or registered mail. If a potential applicant does not respond in writing within 60 days after receipt of the notice, the airport director may remove that person from the register.

(6) The airport director may remove a potential applicant who already has a float or wheel tie-down permit from the applicable register, after notice to the potential applicant.

(c) Vacancies. When a permit becomes available, the airport director shall notify the first potential applicant on the applicable register by certified or registered mail. In order to obtain a permit, the potential applicant must file an application within 20 days after receipt of the notice. After a permit is issued, the permittee has 60 days to meet the requirements in (d) of this section.

MEMORANDUM

To: Al
From: Louann
Date: March 10, 1986
Subj: 2nd PROPOSED CS HB 160 (FIN)

This draft C.S. is different from the first one in the following ways:

1. It combines HBs 159 and 160 in to one bill, at the request of committee members.
2. The language regarding who pays for relocation has been amended slightly on p.2, lines 8-10 and on p. 8, lines 12-14, at the request of DOT/PF. These changes are technical. The old drafts referred to highway construction instead of airport or public facility construction and referenced a permit timeframe that only applies to highway construction.

This draft C.S. does not include language regarding utilities that are installed a few feet away from where the permit says they are supposed to be installed. It appears that this problem is adequately covered in regulation. The permit process already allows for "tolerances" of this sort. See the letter from Assistant Attorney General Jack McGee for further details.

Any unforeseen situations not mentioned specifically in the bill can be addressed by the commissioner. See the language starting at p. 2, line 14; p. 5, line 25 and p. 8, line 15. In each place, the bill states that if it is "in the public interest", the state will pay the cost of relocation, if the Commissioner decides it is appropriate.

3/12/86

Update on 3rd draft of CS HB 160 (FIN):

DOT/PF and the utilities have agreed to new language added into the third draft. (This language is a further refinement of the amendments proposed by Rep. Frank on Monday.) The changes further clarify who will pay for relocating utilities. If the department never required the utility to go through the permitting process, then the state will pay if the utility has to be moved. If a permit requiring the utility to pay for relocation was issued and the department wants the utility moved after five years, the state will pay the cost of the move.

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 7, 1986

Ms. Louann Cutler
Professional Assistant
House Finance Committee
Alaska State House
P.O. Box V
Juneau, AK 99811

Re: CSHB No. 160

Dear Ms. Cutler:

The concern raised after yesterday's House Finance Committee hearing on the most recent draft of CSHB No. 160, as I understand it, was whether any situations exist that would justify the payment of relocation costs to a utility permit holder when the utility facility is not in the location specified in the utility permit and whether such situations, if they exist, should be addressed in the bill.

I believe this concern is satisfactorily addressed by two different safeguards that are inherent the administrative process that governs the issuance of utility permits. Under department regulations, ~~when an individual wishes to install a utility facility within a state right-of-way, he must first secure a permit form from Department of Transportation and Public Facilities (DOT/PF).~~ This permit form contains a section in which the individual is asked to describe in detail where he proposes to locate his facility. The description of the location is usually fixed in reference to the center-line of the highway and, in the case of underground facilities, in reference to the distance below surface of the land. See 17 AAC 15.021(b), a copy of which is attached. In completing this form, the individual is free, so to speak, to set his own location tolerances. For example, he can describe the location of the facility as being within 40 to 45 feet of the center-line of the road. If DOT/PF agrees

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

P.O. Box K
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

Ms. Louann Cutler
Professional Assistant
House Finance Committee

March 7, 1986
Page 2

with the tolerance and approves the permit, a location tolerance for the facility is already built into the permit. 1/

The second safeguard in the process comes into play in the event that the permit holder later discovers that he is unable to locate his facility in the location that he had previously described in his permit form. If this occurs, the permit holder need only amend his permit by changing the location described to conform to the actual conditions on the ground. See 17 AAC 15.021(c), copy attached.

~~In summary, the concern that has been raised is already addressed in two ways: First, the permit applicant can specify his own location tolerances in the permit form. And second, the permit holder can amend his permit if he subsequently finds that he is unable to place the facility within the location tolerances he had described in his original permit.~~ In both cases, the underlying purpose of the utility permit system is kept intact, i.e., the agency that is charged with keeping highway rights-of-way safe for the traveling public is provided with reliable knowledge of the location of all utility facilities located within the right-of-way. 2/

It is difficult to see how this underlying purpose would be served if this bill were to be changed so as to provide payment for relocation costs to a permit holder whose utility facility was located outside of the area that he specified in his permit. Such a change would not appear to encourage a permit

1/ DOT/PF's utility regulations generally specify relatively broad criteria for the placement of utility facilities. For example, above ground utilities running along side rural roads with a posted speed of 40 to 50 miles/hour must be located at least 20 feet from the traveled surface while underground facilities must be located at least 3 feet under the surface of the right of way. See 17 AAC 15.181(a) and 17 AAC 15.211(d), copies attached. New overhead facilities must be located so as to create a minimum clearance of 20 feet. See 17 AAC 15.201, copy attached.

2/ Accurate knowledge of the location of utilities is, of course, particularly important for underground facilities such as pipes carrying fuel or other dangerous substances. This knowledge is important, not only for highway relocation purposes in general, but for safety reasons in particular.

Ms. Louann Cutler
Professional Assistant
House Finance Committee

March 7, 1986
Page 3

holder to use caution and care to insure that he places his facility in the location where he said it would be in his permit application forms.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL

By:

Jack McGee
Jack B. McGee
Assistant Attorney General

JBM:ebc
Enclosures

AMENDMENT

OFFERED IN THE HOUSE FINANCE COMMITTEE

BY: Rep. Frank

TO: House Finance CS HOUSE BILL NO. 160

SENATE BILL NO. _____

PAGE: 2 LINE: 13

PAGE 2
LINE 13

After "airport" Add "or before permits were required"

AMENDMENT

OFFERED IN THE HOUSE:

By: Rep. Frank

To: House Finance CS HOUSE BILL No. 160

SENATE BILL No.

PAGE: 5

LINE: 23

PAGE 5
LINE 23

After "before" insert "July 1, 1960 or before"

AMENDMENT

OFFERED IN THE HOUSE FINANCE COMMITTEE

BY: Rep. Frank

TO: House Finance CS HOUSE BILL NO. 160

SENATE BILL NO. _____

PAGE: 8 LINE: 14

PAGE 8
LINE 14

After "facility" Add "or before permits were required"

17 AAC 15.091. REVOCATION OF UTILITY PERMIT. (a) A utility permit may be revoked if

(1) the facilities were not constructed or installed in accordance with the terms of the utility permit;

(2) the facilities do not conform to the applicable federal, state, and local standards and requirements;

(3) the permittee fails to adequately maintain the facility after having been notified to do so in writing by the department;

(4) the permittee fails to provide safe and adequate detours, barricades, signs, flagmen, or other controls to protect the public as provided in 17 AAC 15.241;

(5) the permittee fails, after written notice from the department, to take corrective measures to comply with the department's instructions or requests;

(6) it is in the mutual interest of the department and the utility as provided in 17 AAC 15.451.

(b) The construction operations of a permittee or his contractor will, in the department's discretion, be suspended by the department for any of the conditions listed in (a) of this section until the conditions are corrected. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.25.220
AS 19.05.040 AS 19.30.051
AS 19.10.240 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.100. MULTIPLE FACILITIES.
Repealed 5/23/82.

17 AAC 15.101. PERMITS FOR UTILITY SERVICE CONNECTIONS. (a) The department will, in its discretion, require an amendment to an existing utility permit or new permit for all utility service connections.

(b) The department will, in its discretion, allow a permittee to install additional service connections across or within a department right-of-way where a longitudinal underground,

surface, or overhead distribution or feeder line has been installed under a utility permit. The utility permit will be amended by the department to include the additional service connections.

(c) New permits are required for underground utility service connections which cross a department right-of-way and which originate from distribution lines located outside the right-of-way. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.110. DRIVEWAYS AND ROAD APPROACHES UTILITY CONFLICTS.
Repealed 5/23/82.

17 AAC 15.111. UTILITY FACILITIES INSTALLED WITHOUT PERMIT. (a) Except for facilities installed before July 1, 1960, or installed under 17 AAC 15.031, any utility facility installation located within a department right-of-way without a utility permit is an unauthorized encroachment.

(b) The owner of a utility facility within a department right-of-way and which is an unauthorized encroachment shall submit an application for a utility permit to the department.

(c) The department will issue a utility permit for encroaching utility facilities meeting the requirements of this chapter.

(d) The owner of an encroaching utility facility shall relocate the facility in order to comply with the minimum requirements of this chapter. Any relocation will be at the owner's expense. If the owner does not take appropriate action within a reasonable time, the unauthorized encroachment is subject to removal under AS 19.25.220 - 19.25.250. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.210

**ARTICLE 2.
UTILITY STANDARDS AND
REQUIREMENTS**

Section

- 120. (Repealed)
- 130. (Repealed)
- 131. Utility accommodation on controlled-access highways
- 140. (Repealed)
- 141. Utility accommodation on existing highways to be converted to controlled access
- 150. (Repealed)
- 151. Overhead crossings on controlled-access highways
- 160. (Repealed)
- 161. Underground crossings on controlled-access highways
- 170. (Repealed)
- 171. Utility accommodation on urban highways and streets
- 180. (Repealed)
- 181. Utility accommodation on rural highways and roads
- 190. (Repealed)
- 191. Utility accommodation in scenic areas
- 200. (Repealed)
- 201. Overhead clearances
- 210. (Repealed)
- 211. Underground facilities
- 220. (Repealed)
- 221. Irrigation and drainage facilities
- 230. (Repealed)
- 231. Highway structures
- 240. (Repealed)
- 241. Safety precautions to be taken by permittee
- 250. (Repealed)
- 251. Installation and inspection
- 260. (Repealed)
- 261. Errors in facility placement
- 270. (Repealed)
- 271. Right-of-way clearing and restoration
- 280. (Repealed)
- 281. Routine maintenance
- 290. (Repealed)
- 291. Emergency maintenance
- 300. (Repealed)
- 301. Utility codes and standards

17 AAC 15.120. UNDERGROUND FACILITIES. Repealed 5/23/82.

17 AAC 15.130. UTILITY STANDARDS OF THE DEPARTMENT OF HIGHWAYS. Repealed 5/23/82.

17 AAC 15.131. UTILITY ACCOMMODATION ON CONTROLLED-ACCESS HIGHWAYS. (a) No utility facility may be installed longitudinally within the controlled-access limits of a highway unless the utility demonstrates to the satisfaction of the department that there is no feasible alternative, and that the proposed utility facility will not adversely affect the design, construction, maintenance, safety, or operation of the highway.

(b) Access for maintenance of a utility facility located within controlled-access limits of a highway or from the entrance or exit ramp of a highway is prohibited.

(c) A facility located within the controlled-access limits of a highway as of the effective date of this section must be relocated or other provisions made so that it can be maintained without using access from the highway or from entrance or exit ramps of the highway. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.25.200
AS 19.05.040	AS 19.30.051
AS 19.20.030	AS 19.30.121
AS 19.20.070	AS 19.40.065
AS 19.25.010	

17 AAC 15.140. CODES OF GOVERNMENTAL AND STATE AGENCIES. Repealed 5/23/82.

17 AAC 15.141. UTILITY ACCOMMODATION ON EXISTING HIGHWAYS TO BE CONVERTED TO CONTROLLED ACCESS. (a) A facility located within the right-of-way limits of an existing highway which will be or has been converted to a controlled-access highway will, in the department's discretion, be permitted to remain in its existing location if the facility can be maintained without using access from the highway or its entrance or exit ramps.

(b) The department will relocate any existing facility that can be maintained only from the proposed controlled access of a highway or its entrance or exit ramps or make other provisions to maintain the facility without requiring access from the highway or its entrance or exit ramps.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB160 (Trans)
 Title: Relocation of Utilities

 Sponsor: Governor/Rules Committee
 Requestor: DOT&PF
 Date of Request: December 5, 1985

FISCAL DETAIL

Agency Affected: DOT&PF
 BRU: Engineering & Operations Standards

 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	(250.0) *	(250.0) *			
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

* State Funds only
 Federal funding agencies will not participate in relocation costs when a utility is not under permit improperly installed.

SEE ATTACHMENT

Prepared by: Bruce R. Freitag
 Division: Engineering & Operations Standards

Phone: 465-2957
 Date: December 5

Approved by Commissioner: _____
 Agency: Transportation & Public Facilities

Date: 12/31/85

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. CSHB 160(Trans)

Relocation of Utilities

The need for this legislation is to revise statutory authority such that Department reimbursement of utility relocation work incident to highway construction would only be allowed if the utility facility was properly permitted by the Department within State highway rights-of-way. The Departments permit also provides assurance that the utility facility is properly located and installed in accordance with established codes (i.e.; electrical, safety, etc.). Presently the law allows for utility relocation reimbursement even if the utility facility is not under permit or within code requirements.

Original sponsor: Rules/Governor

IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 160 (Transportation)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to relocation of utilities; and providing for an effective date."

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

* Section 1. AS 19.25.020(c) is amended to read:

(c) The cost of change, relocation, or removal necessitated by the highway construction is a cost of highway construction to be paid (BY THE STATE) in accordance with AS 19.45.001(4) as follows:

(1) by the department as a cost of highway construction, if the utility facility is installed or authorized under a utility permit after the effective date of this Act, and the utility facility is installed in the location as provided for in the utility permit;

(2) by the department as a cost of highway construction if the facility is installed before the effective date of this Act, and is installed under a utility permit and in the location as specified in the utility permit;

(3) by the utility in all other cases unless the commissioner finds it is in the public interest for the cost to be paid by the department (, NOTWITHSTANDING THE TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION OR STATUTE TO THE CONTRARY).

* Section 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HE 160

February 1, 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 that clarifies who is responsible for the payment of relocation or removal costs when a utility facility is required to be changed, removed, or relocated as a result of highway construction. The bill addresses an ambiguity in AS 19.25.020(c) which presently leaves open the question of whether the state must pay for these costs even though a utility facility was not installed or authorized under the authority of a utility permit or, if a permit exists, even though the facility is not installed in the location provided for in the permit.

Some utility companies have expressed a concern over that part of paragraph (2) of sec. 1 of the bill which says that, for utility permits issued after July 1, 1960, the question of who is to pay for relocation costs is to be determined by the terms of the permit. These utility companies point out that utility permits issued between July 1, 1960 and July 1, 1977 require the utility to pick up these costs. (All permits issued after July 1, 1977 require the state to pay for relocation costs.) The utilities' concern is a legitimate one and, if this bill passes, DOT/PF is prepared to amend all those permits issued between July 1, 1960 and July 1, 1977 so that it is clear that the state will bear the costs of relocation. There is no need to amend these permits now because AS 19.25.020(c) presently requires the state to pay for these costs notwithstanding the terms of any existing permit. A draft copy of this proposed amendment is attached.

The bill also makes clear that the question of who pays for future relocation costs is to be a matter of negotiation between the state and the utility to be reflected in the language of the permit.

Section 1 amends AS 19.25.020(c) by creating four new paragraphs:

Paragraph (1) requires the state to pay for the costs of the change, removal, or relocation of any utility facility installed before July 1, 1960 regardless of whether the facility is authorized by a utility permit at the time the change, relocation, or removal of the facility is required. This is a matter of equity and fairness since there was no real uniform utility permit system in place before July 1, 1960.

Paragraph (2) requires either the state or the utility to pay for the costs of the change, removal, or relocation of the utility facility depending on the terms of the permit, provided the permit was issued after July 1, 1960. The effect of this paragraph is to make it clear that the question of who is to pay for relocation costs is a matter to be negotiated between the state and the utility. Presently, the state is required to pay for all relocation costs regardless of any agreement with the utility to the contrary.

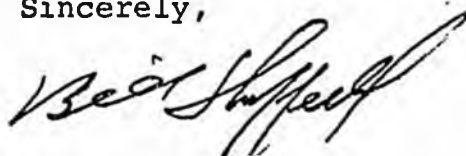
Paragraph (3) requires the utility to pay for relocation costs if their facility was installed after July 1, 1960 and is not under permit. Under existing law, it is ambiguous whether a utility has to pay relocation costs if it does not have a utility permit.

Paragraph (4) requires the utility to pay for relocation costs if their facility is not installed in the location provided for in a permit. Currently, it is unclear whether a utility must pay relocation costs even if its facility is not installed in the location set out in the utility permit.

Section 2 of the bill sets an effective date of July 1, 1985 for this bill.

I urge your favorable action on this measure so that the question of who pays for utility relocation costs under the various circumstances described in the bill is answered in clear statutory language.

Sincerely,



Bill Sheffield
Governor

Offered: 4/11/85
Referred: Rinance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE
2 CS FOR HOUSE BILL NO. 160 (Transportation)
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 relocation of utilities; and
7 providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 19.25.020(c) is amended to read:
10 (c) The cost of change, relocation, or removal necessitated by
11 highway construction is a cost of highway construction to be paid [BY
12 THE STATE] in accordance with AS 19.45.001(4) as follows:
13 (1) by the department as a cost of highway construction, if
14 the utility facility is installed or authorized under a utility permit
15 or a regulation after the effective date of this Act;
16 (2) by the department as a cost of highway construction if
17 the facility is installed before the effective date of this Act;
18 (3) by the utility in all other cases unless the commis-
19 sioner finds it is in the public interest for the cost to be paid by
20 the department [, NOTWITHSTANDING THE TERMS OR PROVISIONS OF ANY
21 EXISTING PERMIT, AGREEMENT, REGULATION OR STATUTE TO THE CONTRARY].
22 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).

Offered: 2/22/85
Referred: Transportation
and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 160 (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 relocation of utilities incident
8 to highway projects; and providing for an effective
9 date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 19.25.020(c) is amended to read:
12 (c) The cost of change, relocation, or removal necessitated by
13 highway construction is a cost of highway construction to be paid [BY
14 THE STATE] in accordance with AS 19.45.001(4) as follows:
15 (1) by the department as a cost of highway construction,
16 provided that the utility facility is properly installed in accordance
17 with a permit, or in the absence of a permit, was installed before the
18 effective date of this paragraph in the proper location in accordance
19 with department regulations;
20 (2) by the utility in all other cases [, NOTWITHSTANDING THE
21 TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION OR
22 STATUTE TO THE CONTRARY].
23 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

Introduced: 2/1/85
Referred: Community & Regional
Affairs, Transportation and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 160

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 relocation of utilities incident
7 to highway projects; and providing for an effective
8 date."

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

10 * Section 1. AS 19.25.020(c) is amended to read:

11 (c) The cost of change, relocation, or removal necessitated by
12 highway construction is [A COST OF HIGHWAY CONSTRUCTION] to be paid
13 [BY THE STATE] in accordance with AS 19.45.001(4) as follows:

14 (1) by the department as a cost of highway construction if
15 the facility was installed before July 1, 1960, regardless of whether
16 the facility is authorized by a permit at the time the change, relo-
17 cation, or removal of the facility is required;

18 (2) by either the department as a cost of highway con-
19 struction or by the utility, depending on the terms of the utility
20 permit if the facility was installed or authorized under the authority
21 of a utility permit issued after July 1, 1960;

22 (3) by the utility if the facility was installed after July
23 1, 1960, and there is no utility permit for the facility;

24 (4) by the utility if the facility is not installed in the
25 location provided for in the utility permit, regardless of whether the
26 utility permit requires payment by the department [, NOTWITHSTANDING
27 THE TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION
28 OR STATUTE TO THE CONTRARY].

29 * Sec. 2. This Act takes effect July 1, 1985.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 4/24/85

REQUEST

Bill/Resolution No.: CSHB 161
Title: Re: Student Loans

Sponsor: Binkley
Requestor: House Finance
Date of Request: 4/24/85

FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Postsecondary Education Commission
BRU, Program or Subprogram(s) Affected: Student Loan Administration
Student Loan Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL			28.4	60.2	63.8	67.6
300 CONTRACTUAL		20.0				
400 SUPPLIES			.1	.2	.2	.2
500 EQUIPMENT			1.2	1.2		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	N.A.	20.0	29.7	61.6	65.0	67.8

CAPITAL		(48.7)	(2,274.5)	(4,207.9)	(6,209.0)	(9,629.4)
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REVENUE						
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	N.A.	(28.7)	(2,244.8)	(4,146.3)	(6,144.0)	(9,561.6)
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	N.A.	1.0	.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached.

Prepared By: Kerry D. [Signature]
Division: Postsecondary Education Commission

Phone: 465-2854
Date: 4/25/85

Approved by Commissioner: _____
Agency: _____

Date: _____

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

7/1/84

Proposal No. 6. Increase loan interest to 8%, beginning in FY86, reduce grace period to six months, but maintain current monthly payment level for the first three years of repayment, then increase payments for the last seven years.

(a) Fiscal Impact:

Year of Impact	BORROWING YEAR													Total Impact
	FY86	FY87	FY88	FY89	FY90	FY91	FY92	FY93	FY94	FY95	FY96	FY97	FY98	
FY86	\$ 48.7	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$ 48.7
FY87	2,229.9	44.6												2,274.5
FY88	2,122.8	2,040.5	44.6											4,207.9
FY89	2,181.5	1,942.4	2,040.5	44.6										6,209.0
FY90	3,605.7	1,996.2	1,942.4	2,040.5	44.6									9,629.4
FY91	1,102.8	3,299.3	1,996.2	1,942.4	2,040.5	44.6								10,425.8
FY92	1,326.8	1,729.1	3,299.3	1,996.2	1,942.4	2,040.5	44.6							12,378.9
FY93	1,966.2	1,214.1	1,729.1	3,299.3	1,996.2	1,942.4	2,040.5	44.6						14,232.4
FY94	2,000.4	1,799.1	1,214.1	1,729.1	3,299.3	1,996.2	1,942.4	2,040.5	44.6					16,075.7
FY95	2,010.4	1,839.6	1,799.1	1,214.1	1,729.1	3,299.3	1,996.2	1,942.4	2,040.5	44.6				17,915.3
FY96	1,961.7	1,839.6	1,839.6	1,799.1	1,214.1	1,729.1	3,299.3	1,996.2	1,942.4	2,040.5	44.6			19,706.2
FY97	[219.5]	1,795.0	1,839.6	1,839.6	1,799.1	1,214.1	1,729.1	3,299.3	1,996.2	1,942.4	2,040.5	44.6		19,320.0
FY98	[112.4]	[200.9]	1,795.0	1,839.6	1,839.6	1,799.1	1,214.1	1,729.1	3,299.3	1,996.2	1,942.4	2,040.5	44.6	19,226.2
FY99	[171.1]	[102.8]	[200.9]	1,795.0	1,839.6	1,839.6	1,799.1	1,214.1	1,729.1	3,299.3	1,996.2	1,942.4	2,040.5	19,020.1
FY00	[1,595.3]	[156.6]	[102.8]	[200.9]	1,795.0	1,839.6	1,839.6	1,799.1	1,214.1	1,729.1	3,299.3	1,996.2	1,942.4	15,354.2

(b) Additional Administrative Cost:

The increase workload would result in the need for additional repayment staff, but not until FY87.

Object Code	FY86	FY87	FY88
100	\$ -0-	\$28.4	\$60.2
200	-0-	-0-	-0-
300	20.0	-0-	-0-
400	-0-	.1	.2
500	-0-	1.2	1.2
TOTAL:	\$20.0	\$29.7	\$61.6

(c) Comments:

1. The \$20.0 in contractual is for modifying the existing student loan on-line system to accommodate for individuals with loans carrying varying interest rates.
2. The monthly payments for borrowers would change upward the last seven years of the repayment cycle. Examples of the repayment schedule are:

<u>Loan Amount</u>	<u>Current 5%</u>	<u>Delayed 8%</u>
\$ 1,000	\$ 10.61	\$ 10.61/\$ 12.80
\$24,000	\$254.56	\$254.56/\$306.89

3. Forgiveness would be applied as it is now, with the State paying on behalf of the borrower up to 50% of the principal and interest accrued. Hence, the delayed impact of the 8% interest will actually provide a small additional incentive for forgiveness (about \$26 on a \$24,000 loan).

Original sponsor: Binkley

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 161 (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 interest rate and repayment
7 provisions of scholarship loans; and providing for an
8 effective date."

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

10 * Section 1. AS 14.43.120(f) is amended to read:

11 (f) Interest on a loan given under AS 14.43.090 - 14.43.160 is
12 at the rate of eight [FIVE] percent a year unless the loan is in
13 default. Interest on a loan that is in default is 10 percent a year
14 for the period the loan is in default.

15 * Sec. 2. AS 14.43.120(g) is amended to read:

16 (g) Repayment of the principal and interest on the loan begins
17 no later than six months [ONE YEAR] after the borrower's studies are
18 terminated. The loan shall provide for repayment of the total amount
19 owed in periodic installments in not more than 10 years from the
20 commencement of repayment, except as provided in (k) and (n) of this
21 section. Interest shall accrue as provided in (f) of this section,
22 but the borrower shall be allowed to repay the loan at a five percent
23 interest rate for the first three years of the repayment period, with
24 the extra accrued interest to be paid in later years. If the commis-
25 sion and the borrower agree to a different repayment schedule, the
26 borrower shall repay the loan in accordance with the agreement. A
27 borrower may make payments earlier than required by this subsection.

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

P.O. BOX 1214
JUNEAU, ALASKA 99802
APRIL 11, 1985

REP. JOHN RINGSTAD, CHAIRMAN
SUBCOMMITTEE ON ~~HEALTH, CAREER, AND ELDER SERVICES~~ UNIVERSITY OF ALASKA BUDGET
HOUSE FINANCE COMMITTEE

TESTIMONY OF DENNIS P. HARRIS
ON CS HB 161 (LOANS)

DEAR MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

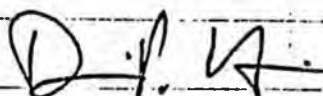
I WISH THAT I COULD TESTIFY IN PERSON TODAY ON CS HB 161 (LOANS) BUT I AM INSTEAD WORKING AT MY PART-TIME STUDENT JOB, BECAUSE THE AMOUNT OF MY STUDENT LOAN IS INSUFFICIENT TO COVER THE TRUE COST OF LIVING WHILE ATTENDING UAF.

I RECOGNIZE THAT DECLINING OIL REVENUES MAY MEAN THAT THE LEGISLATURE WILL HAVE TO CUT BACK APPROPRIATIONS TO THE STUDENT LOAN FUND. UNFORTUNATELY, CS HB 161 (LOANS) DOES NOT ADDRESS ONE OF THE MAJOR REASONS WHY THE FUND REQUIRES MORE MONEY TO CONTINUE ITS LOAN PROGRAMS — DEFAULTS BY PRIOR BORROWERS. IT IS EXTREMELY UNFAIR TO PENALIZE CURRENT BORROWERS FOR THE FAILURE OF OTHERS TO REPAY THEIR OBLIGATIONS.

WHILE COLLECTION EFFORTS HAVE RECENTLY IMPROVED, I BELIEVE THAT THE LEGISLATURE SHOULD CONSIDER SELLING THE DEFAULTED LOANS AT A DISCOUNT IN ORDER TO IMMEDIATELY RETURN CASH TO THE FUND AND REDUCE FURTHER COLLECTION COSTS.

IF SECTION 4 OF THE COMMITTEE SUBSTITUTE MEANS THAT FORGIVENESS WOULD NOT APPLY TO LOANS MADE PRIOR TO 1990 BUT COLLECTIBLE AFTER THAT DATE, I WOULD OBJECT TO THAT PROVISION. WHILE THE FORGIVENESS CLAUSE WILL NOT AFFECT MY DECISION TO STAY IN ALASKA AFTER GRADUATION, IT WAS A MAJOR FACTOR IN THE FINANCIAL PLANNING THAT I UNDERTOOK WHEN DECIDING TO RETURN TO COLLEGE AT AGE 37. WHEN I GRADUATE, I WILL HAVE NO SAVINGS AND AT LEAST \$15,000 DEBT. IF FORGIVENESS WILL NOT APPLY TO MY LOANS, I WILL HAVE PLANNED MY FINANCIAL FUTURE IN VAIN.

THANK YOU FOR CONSIDERING MY TESTIMONY.



DENNIS P. HARRIS

(UAS) CLASS OF '87 - BUSINESS MAJOR

CUMULATIVE FISCAL IMPACTS

PROPOSAL	ONE YEAR		FIVE YEARS		TEN YEARS		FIFTEEN YEARS	
	With	W/O Forgiveness	With	W/O Forgiveness	With	W/O Forgiveness	With	W/O Forgiveness
1. 8%	\$-0-	\$-0-	\$ 2,662.8	\$-0-	\$ 27,586.8	\$ 29,070.0	78,452.0 \$-29,070.0	\$106,093.5
2. 8% and 6-mo. grace	55.0	55.0	27,368.5	55.0	103,815.7	105,324.1	184,606.2	211,989.8
3. 1/2 / 1/2%	-0-	-0-	655.8	-0-	13,028.6	14,378.2	51,917.8	77,800.9
4. 1/2 / 1/2% and 6-mo. grace	49.7	49.7	23,730.3	49.7	86,305.4	87,678.0	150,483.0	175,725.0
5. Delayed 8%	-0-	-0-	-0-	-0-	13,269.1	14,752.3	48,538.3	76,179.8
6. Delayed 8% and 6-mo. grace	48.7	48.7	22,369.5	48.7	93,397.6	94,906.0	186,015.3	213,398.8

- NOTES: 1. In time, the fiscal impact of Proposal No. 5 will be the same as that for Proposal No. 1, and that for Proposal No. 6 will be the same as the fiscal impact for Proposal No. 2.
2. Incorporating Proposal No. 7 with any of the above alternatives, would increase program receipts an average of around \$9.7 million after the effect levels--some years ahead.

1600.00
 160.00 per program
 10.61
 12.80
 PG 202
 156 3YR.
 14,431.20
 PG. 203
 LAST SENIORS

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/5/85

REQUEST

Page 1 of 2

FISCAL DETAIL

Bill/Resolution No.: CSHB 161(Loan)
 Title: Student Loan Interest,
 Forgiveness, and Terms
 Sponsor: Binkley
 Requestor: House Loans Comm.
 Date of Request: 3/4/85

Agency Affected: Education
 Program Category Affected: Postsecondary
 Commission
 BRU, Program or Subprogram(s) Affected:
Student Loan Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL				(56.7)	(168.9)	(349.3)
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REVENUE	N.A.	-0-	-0-	56.7	168.9	349.3
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	N.A.	-0-	-0-	(56.7)	(168.9)	(349.3)
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: Kerry D. Romberg, Executive Director Phone: 465-2854
 Division: Alaska Commission on Postsecondary Date: 3/6/85
Education
 Approved by Commissioner: _____ Date: _____
 Agency: _____

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

7/1/84

Assumptions

(1) % of borrowers entering repayment:

<u>Percent</u>	<u>Years after borrowing</u>
0.0	one year
22.4	two years
21.3	three years
.. 21.8	four years
32.3	five years
<u>2.2</u>	six or more years
100.0	

(2) Borrowing averages will be:

FY86	\$4,775	FY89	\$5,725
FY87	\$5,050	FY90	\$5,900
FY88	\$5,400		

(3) Loan volumes are at current projection levels and program is fully funded. Adjustments made will be the result of program changes.

Impacts

(1) Increasing loan interest from 5% to 8% (Section 1 of the bill).

- (a) The increase will not affect loan volume.
- (b) Increased interest will impact the fund over time in the following manner:

Year of Impact	<u>Borrowing Year</u>				Total New Revenue
	<u>FY86</u>	<u>FY87</u>	<u>FY88</u>	<u>FY89</u>	
FY86	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
FY87	-0-	-0-	-0-	-0-	-0-
FY88	56.7	-0-	-0-	-0-	56.7
FY89	108.2	60.7	-0-	-0-	168.9
FY90	168.5	118.5	62.3	-0-	349.3
FY91	247.9	177.6	121.6	58.5	605.6
FY92	253.5	265.1	182.3	114.2	815.1
FY93	253.5	271.1	272.2	171.1	967.9
<u>FY94</u>	<u>253.5</u>	<u>271.1</u>	<u>278.3</u>	<u>255.5</u>	<u>1,058.4</u>

(2) Eliminating the forgiveness benefits in 1990 (Section 4 of the bill)

- (a) Elimination of forgiveness will not affect loan volume
- (b) The impact of eliminating forgiveness will be realized over time, however, delaying implementation until 1990, moves the fiscal impact even further into the future.

<u>Year</u>	<u>Principal</u>	<u>Interest</u>	<u>Total Additional Revenue</u>
FY86	\$ -0-	\$ -0-	\$ -0-
FY87	-0-	\$ -0-	\$ -0-
FY88	-0-	\$ -0-	\$ -0-
FY89	-0-	\$ -0-	\$ -0-
FY90	-0-	\$ -0-	\$ -0-
FY91	-0-	\$ -0-	\$ -0-

HOUSE BILL 161

	<u>Original Bill</u>		<u>Loans Committee Substitute</u>
Sec. 1	Raises interest rates on loans from 5% to 8%.	Sec. 1	Raises interest rate to 8%.
Sec. 2	Changes eligibility--adds applicant must have graduated within one year, be within 6 months of graduating, or demonstrated financial need.	* Sec. 2(k)	Limits the amount of time a person can defer principal payments while in the military up to 6 years.
Sec. 3	If study interrupted for more than two years a new loan could be obtained only if financial need is shown.	* Sec. 3	Repealed and reenacted. Adds provision that a person cannot be delinquent or in default on a loan. Grants exemptions for absences from the state under certain described conditions.
Sec. 4	A technical amendment clarifying the conditions for repayment of the rural teachers loans, and allowing the forgiveness portion to continue for these loans.	Sec. 4	Repeals the forgiveness.
Sec. 5	Keeps the interest rate for teachers scholarship loan at 5% unless it is in default.	Sec. 5	Makes forgiveness repealer take effect September 1, 1990.
Sec. 6	Repeals the forgiveness portion of the student scholarship loan.	Sec. 6	Increases interest rate as of July 1, 1985.
Sec. 7	Specifies when and for whom new eligibility requirements apply. Must be newly graduated from high school, have applied within one year of graduation and not interrupted studies for more than 2 years.	* Sec. 7	Makes new eligibility and limits on military service effective
Sec. 8	Effective date: July 1, 1985		

* Elements of HB 185 which were incorporated into CSHB161

NOTE: By eliminating Sec. 4 of HB 161 the committee substitute in effect raises interest rates on rural teacher loans to 8% also.

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



POUCH V
JUNEAU, ALASKA 99811
(907) 485 4137
PO BOX 1085
BETHEL, ALASKA 99559
(907) 543 2922

REPRESENTATIVE JOHNE BINKLEY

March 20, 1985

Mr. Al Price, Counselor
Barrow High School
Pouch 169
Barrow, Alaska 99723

Re: House Bill 161 - State Student Loan Program

Dear Mr. Price:

Thank you for your letter concerning House Bill 161 which changes regulations of the State Student Loan Program.

The Student Loan Program is the best loan program we have in the State of Alaska today. There is no better way for the State to invest its money than in the education of its people. That is why we must make some changes in the program now to protect it for future generations to have the same opportunities. If we don't make changes now to put the Student Loan Program on a sounder financial base, it will end up short-funded before too long. All state loan programs this year are looking at reductions in funding, the student loan program included. That will mean some students who had planned on receiving state student loans may not receive them.

Changes in eligibility requirements would work to the benefit of young people just out of high school, and the older student who has financial need by giving them priority use of loan funds over the older students who have already gone through school and on to good paying jobs and who can truly afford to finance their own education. If choices have to be made, I feel young high school graduates and older students who demonstrate financial need should be given first priority.

I understand your concern about placing limitations on eligibility, but if the program is not fully funded who would you suggest not receive the loan funds?

Mr. Al Price
March 20, 1985
Page 2

On March 4 the House Special Committee on Loans offered out a Committee Substitute which changes the original bill and in effect would now change Student Loan Program regulations as follows:

- a) the interest rate charged for student loans would be raised from five (5) percent to eight (8) percent; and
- b) the forgiveness portion of the loan program would be eliminated in 1990.

Neither of these changes would affect loans which have already been received by students.

House Bill 161 is now in the House Health, Education, and Social Services Committee, and it is then scheduled to come to Finance Committee at which time I will be taking another really close look at alternatives to strengthen the program. In the meantime I am continuing to monitor the bill, and I will appreciate hearing any suggestions you may have in that regard.

I thank you for your interest. I hope you will continue to follow House Bill 161 and that you will lend your support to its passage.

Sincerely,



John Binkley
Representative

cc: Senator Frank Ferguson
Representative Al Adams

NORTH SLOPE BOROUGH SCHOOL DISTRICT



MARCH 1, 1985

MAR 13 1985

Barrow Whalers
Barrow High School
Pouch 8950
Barrow, Alaska 99723
(907) 852-8950

Fred Ipalook Elementary School
P.O. Box 450
Barrow, Alaska 99723
(907) 852-4711

Nunamiut Wolves
Nunamiut School
Anaktuvuk Pass, Alaska 99721
(907) 661-3226

Atqasuk Eagles
Meade River School
Atqasuk, Alaska 99723
(907) 633-6315

Kaveolook Rams
Harold Kaveolook School
P.O. Box 10
Kaktovik, Alaska 99747
(907) 640-6626

Nuiqsut Trappers
Nuiqsut School
Nuiqsut, Alaska 99724
(907) 480-6712

Tikigaaq Harpooners
Tikigaaq School
P.O. Box 125
Point Hope, Alaska 99766
(907) 368-2662 or 368-2663

Cully School
Point Lay, Alaska 99759
(907) 833-2312

Alak Huskies
Alak School
P.O. Box 10
Wainwright, Alaska 99782
(907) 763-2541 or 763-2551

REPRESENTATIVE JOHN BINKLEY
HOUSE OF REPRESENTATIVES
STATE OF ALASKA
POUCH V
JUNEAU, AK 99811

DEAR REPRESENTATIVE BINKLEY,

I AM WRITING WITH SOME CONCERN ABOUT HOUSE BILL 161 PERTAINING TO THE ALASKA STATE LOAN PROGRAM. IT APPEARS THAT ONE PROVISION OF THIS BILL WOULD LIMIT LOAN AVAILABILITY TO RECENT HIGH SCHOOL GRADUATES, WHICH I BELIEVE IS A DISSERVICE BOTH TO THE PROGRAM AND TO A SIGNIFICANT PART OF THE STUDENT POPULATION. SOME OF THE MOST CONFIDENT AND SELF-MOTIVATED STUDENTS I HAVE KNOWN HAVE BEEN PEOPLE IN THEIR 20'S AND 30'S WHO HAVE BEEN PRODUCTIVE WORKERS BEFORE DECIDING TO PURSUE A HIGHER EDUCATION. I FEEL THAT SUCH PERSONS MAY ALSO HAVE A BETTER UNDERSTANDING OF THE FULL IMPLICATIONS OF BORROWING TO FINANCE EDUCATION. I HOPE YOU CAN GIVE SOME CONSIDERATION TO MY CONCERNS.

SINCERELY,

AL PRICE, COUNSELOR
BARROW HIGH SCHOOL

AP:dm

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



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PO BOX 1265
BETHEL ALASKA 99559
(907) 543-2922

REPRESENTATIVE JOHNE BINKLEY

March 25, 1985

Ms. Barbara L. Finnie
3630 Alexander Avenue
Anchorage, Alaska 99504

Re: HB 161 - Student Loan Program

Dear Ms. Finnie:

I have received my copy of the letter you wrote to Representative Adams concerning HB 161 which would amend the Student Loan Program.

I am sure you will agree that the Student Loan Program is the best loan program we have in the State of Alaska today. There is no better way for the State to invest its money than in the education of its people. That is why we must make some changes in the program to protect it for future generations to have the same opportunities. If we don't make changes now to put the program on a sounder financial base it will end up short-funded before too long. All state loan programs this year are looking at reductions in funding, whether or not HB 161 passes, the student loan program included. That will mean that some students who had planned on receiving state student loans may not receive them.

The basis for changing eligibility regulations is the State's current revenue picture. As oil revenues decline, all State loan programs are facing shortfalls in funding. Before the day comes when not every person applying for a State Student Loan will be able to receive one, policies and guidelines must be established to assist the Post Secondary Commission in making those decisions. I feel it is important that the Legislature, as elected officials of our State, take the initiative in setting policies which will determine priority eligibility for student loans. I believe graduating high school students and people who can't afford to finance their education should be given top priority. We must not let the program default to a first come, first serve basis.


March 25, 1985

Page 2

The five percent (5%) payback does provide funds for the loan program, but not enough to sustain itself. Over the life of the Student Loan Program the State of Alaska has invested \$285 million, over one-quarter of a billion dollars. This year the State is looking to receive back just \$10 million to help fund this year's students. Revenues received from a 3% increase will certainly help in efforts to strengthen the financial base of the program for future users. An increase in interest rate from 5% to 8% would mean an additional monthly payment of \$1.37 per \$1,000 owed per month. I believe students will be willing to pay that additional amount in the interest of keeping the program alive for future students. I am glad to see that you agree that the increase in interest is necessary at this time.

The purpose of the Student Loan Program is to loan money to people. If we can have the foresight to make some changes today to protect the program, it will be around to loan money to people in the future. I hope you will continue follow House Bill 161 and will lend your support to its passage.

Sincerely,

A handwritten signature in black ink, appearing to read "John Binkley", written in a cursive style.

John Binkley
Representative

cc: Representative Al Adams

Offered: 3/4/85
Referred: Health, Education &
Social Services and Finance

Original sponsor: Binkley

1 IN THE HOUSE
2 CS FOR HOUSE BILL NO. 161 (Loans)
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 interest rate, forgiveness
7 provisions, eligibility requirements, and conditions
8 of scholarship loans; and providing for an effective
9 date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 14.43.120(f) is amended to read:
12 (f) Interest on a loan given under AS 14.43.090 - 14.43.160 is
13 at the rate of eight [FIVE] percent a year unless the loan is in
14 default. Interest on a loan that is in default is 10 percent a year
15 for the period the loan is in default.
16 * Sec. 2. AS 14.43.120(k) is amended to read:
17 (k) Periodic installments of principal shall be deferred, but
18 interest shall accrue and be paid unless the student is eligible for
19 interest payment benefits under (1) of this section during any of the
20 following:
21 (1) return to student status as provided in (c) of this
22 section;
23 (2) serving an initial period of up to six years on active
24 duty as a member of the armed forces of the United States;
25 (3) serving, for up to three years, as a full-time volun-
26 teer under the Peace Corps Act;
27 (4) serving, for up to three years, as a full-time volun-
28 teer under the Domestic Volunteer Service Act of 1973;
29 (5) for a one-time period up to 12 months in which the

1 borrower is seeking and unable to find employment in the United
2 States; or

3 (6) if the borrower becomes 50 percent or more disabled as
4 certified by competent medical authority.

5 * Sec. 3. AS 14.43.125 is repealed and reenacted to read:

6 Sec. 14.43.125. ELIGIBILITY OF STUDENTS. (a) A person may
7 apply for and obtain a scholarship loan if the person

8 (1) is

9 (A) enrolled as a full-time student in a career educa-
10 tion, associate, baccalaureate, or graduate degree program; or

11 (B) a graduate of a high school or the equivalent, or
12 scheduled for graduation from a high school within six months,
13 with sufficient credits to be admitted to a career education
14 program or to an accredited college or university;

15 (2) is not delinquent or in default on a previously awarded
16 scholarship loan; and

17 (3) is a resident of the state at the time of application
18 for the loan; for purposes of this section, a person qualifies as a
19 resident of the state if at the time of application for the loan the
20 person

21 (A) has been physically present in the state for at
22 least two years immediately before the time of application for
23 the loan;

24 (B) is dependent on a parent or guardian for care, the
25 parent or guardian has been present in the state for at least two
26 years immediately before the time of application for the loan and
27 the person has been present in the state for at least one year of
28 the immediately preceding five years except that the commission
29 may by a two-thirds vote, acting upon a written appeal by the