

LEGISLATIVE FINANCE - HOUSE / SENATE FINANCE COMM. FILES 8879

HB 154 cont. 472

63

left in effect, modified or replaced by other procedures. If upon review, the Court determines that alternative procedures are warranted, the parties shall have the opportunity to present their views before such alternative procedures are implemented.

5. Powers. Notwithstanding the powers invested in the Monitor pursuant to Civil Rule 53, the Monitor shall also have the following specific powers:

a. Inspections. The Monitor shall have unlimited access to any of Defendants' facilities, buildings or offices to the extent that such access is necessary to the performance of her duties. The Monitor is not required to give any advance notice of any visit or inspection, nor disclose the purpose of said visit or inspection, if she deems such action appropriate. However, it is recommended that the Monitor shall give the Department at least 24 hours advance notice of any visit or inspection in order to assure that all relevant personnel of the Department will be present for such visit or inspection.

b. Records. The Monitor shall have unlimited access to all nonconfidential records, files and papers maintained by the Department of Corrections to the extent that such access is necessary to the performance of her duties. If the Monitor seeks access to Defendants' records deemed "confidential" by law or regulation, the Monitor shall apply to the Court for an order directing the production of such records under such conditions as may be appropriate. Any documents provided to the Monitor which Defendants determine to be confidential for security reasons pursuant to 22 AAC 05.095 or other applicable authority shall be kept confidential by the Monitor and, if provided to the Court as part of any report or recommendation, shall be sealed and not made available to the public or individual Plaintiffs without approval of the Court after the parties have had the opportunity to present their views to the Court. Any confidential documents provided to Plaintiffs' counsel shall be kept confidential from individual Plaintiffs absent agreement

by Defendants' counsel or order of the Court. The Monitor may obtain and maintain copies of any nonconfidential records and of such confidential materials as the Court may direct.

c. Interviews. The Monitor may conduct confidential interviews with any present or future staff or representatives of the Department, and any present or future inmates, or groups of inmates, to the extent necessary for the performance of her duties. The Monitor may conduct confidential interviews with former staff and inmates to the extent they agree to be interviewed.

d. Meetings. The Monitor may convene or attend any formal or informal meetings or proceedings of any staff or representatives of the Department of Corrections and any formal or informal meetings of any inmates or groups of inmates to the extent necessary for the performance of her duties.

e. Reports. The Monitor may require the preparation and completion of any reports or statements by employees, staff or representatives of the Department of Corrections, or any inmates or groups of inmates to the extent necessary for the performance of her duties.

f. Hearings. The Monitor shall have the power to order and conduct hearings with respect to any complaints of noncompliance, including the power to compel the attendance of witnesses and the production of relevant records and materials.

g. Staff-Experts. The Monitor may request the Court to appoint additional staff and/or experts, consultants or other professionals as she may deem necessary to carry out the duties of the Monitor. Compensation for such additional staff or professionals shall be determined by the Court.

6. Reports and Findings. In addition to the 120-day interim status report mentioned above, the Monitor shall also file with the Court such findings and reports as she deems necessary. Any such reports shall first be submitted to the parties, who shall have the opportunity to respond and object to the report. The Monitor shall establish the timetables in which

objections and responses by the parties shall be made. Following consideration of the parties' objections, including the conduct of hearings if necessary or appropriate, the Monitor shall file her report with this Court, including such findings and recommendations as may be necessary.

7. Hearings before the Court. Either party may file objections to the Monitor's report and request a hearing before the Court thereon pursuant to the provisions of Civil Rule 53. Hearings or argument to the Court regarding any objections shall be held on an expedited basis and, in no event, heard no more than 30 days from the date of submission of the Monitor's report.

The Court may request the Monitor to attend and participate in such hearing, including through testimony, if appropriate.

The Monitor's findings shall be accepted by the Court unless shown to be clearly erroneous. Any evidence not previously presented to the Monitor in support of the parties' objection will be admitted at a hearing only upon a showing that the party offering it lacked a reasonable opportunity to present the evidence to the Monitor.

Nothing in this provision shall limit or preclude the Monitor from having informal communications with the Court on administrative and procedural matters encountered with the Monitor's duties, provided that the Monitor and Court shall not have ex parte communications on the merits of any substantive dispute or compliance issue which may ultimately appear before the Court for resolution.

8. Compensation and Expenses. The Monitor shall be compensated at the rate of \$50,000 per year, payable in equal monthly installments or as otherwise directed by the Court. This compensation shall be paid directly to the Monitor by

Defendant Department of Corrections.¹ The Department's counsel is directed to prepare a written contract or contracts for the Monitor.²

Office expenses of the Monitor, such as long distance telephone calls, data processing, postage, recording and transcription fees, will also be paid by Defendant. Presently, however, the Court contemplates providing the Monitor with office space and as much office and secretarial support services as practicable in the Alaska Court System buildings in Anchorage, Alaska.

Travel expenses of the Monitor, including per diem, shall be paid by the Alaska Court System. All such expenses will be reviewed and approved, in advance, by this Court. When undertaking any travel, the Monitor shall be paid per diem at the rate currently paid employees of the State of Alaska.

9. Defendants' PSA Reporting Requirements - Suspended. In order to reduce unnecessary expense and to encourage maximum cooperation with the Monitor and the informal dispute resolution procedures established herein, the periodic compliance reporting obligations of Defendants, as required by §cc of the PSA, as amended by the Order of this Court of May 28, 1987, are hereby suspended for the duration of the instant appointment order.

1. It is recognized, however, that the Monitor's term of appointment extends through the instant fiscal year and into the next fiscal year; that the Department cannot lawfully be compelled to spend resources of the instant fiscal year budget for obligations to be incurred in the next fiscal year; but that the Department will use good faith efforts to obtain adequate funding for the next fiscal year in order to pay for the balance of the Monitor's fee for that year.

2. Insofar as this appointment is a Court-ordered Master's appointment, with compensation being ordered in the form of a contract-relationship, any contractor competitive bidding regulations, law or procedures which the Department might normally operate under are deemed inapplicable to this appointment.

DATED at Anchorage, Alaska, this 9th day of December,
1987.

Douglas J. Serdahely
DOUGLAS J. SERDAHELY
Superior Court Judge

I certify that on 12-9-87
a copy of the above was mailed/
hand delivered to each of the
attorneys and/or individuals at
their addresses of record.
Rayna Corey
Secretary to Judge Serdahely

P. Volland
M. Stark
E. Anders
H. Jundura
Alaska Legal Services
A. Riardon

MEMORANDUM

State of Alaska

DEPARTMENT OF CORRECTIONS

TO: Alison M. Elgee, Director
Office of Management and Budget
Division of Budget Review

DATE: January 23, 1989

FILE NO:

TELEPHONE NO: 465-3376

THRU:

SUBJECT: FY89 Supplemental
Appropriation Request

Susan E. Knighton

FROM: Susan E. Knighton, Director
Administrative Services

The Department of Corrections requests a supplemental request for FY89. The following provides specific details for each part of this request.

1. \$3.6 Administrative Services Miscellaneous claims for payment which have been delayed because notification of outstanding charges was not received by the Department prior to fiscal year cutoffs. The detailed invoices are contained in Attachment I.
2. \$658.8 Administrative Services To settle arbitration decisions related to APFA vs. DOC.
#87-G-015 (\$630.8) requiring payment of 1/2 hour overtime to all correctional officers who worked 12 hour shifts and were not relieved for a lunch break. The arbitration decision covered FY87 and FY88 with calculated settlement amounts of \$166.4 and \$464.4 for each respective fiscal year. A copy of the decision is attached as Attachment II.
#87-G-308 (\$20.0) relating to flex time scheduling.
#87-G-038 (\$8.0) relating to holiday pay.

Failure to receive these supplemental funds would make it impossible for the Department to pay the settlements and the monetary responsibility would still exist for the State.

3. \$1,601.4 Major Medical - Contractual The Major Medical component has been historically underfunded and each year the Department must hold valid bills and move funds between components in order to meet its obligations in a timely fashion. Attachment III identifies projected shortfalls for FY89. Failure to receive these supplemental monies would render us unable to meet these obligations.
4. \$20.0 Statewide Programs - Contractual When the FY89 budget was finalized, it was thought that the court ordered Cleary Monitor would be able to complete her work in six months, but if it turned out that this was not possible that the

Alison M. Elgee
Page 2
January 23, 1989

Department would request the necessary supplemental funds for full year funding. It has been concurred by the Department and the inmate's legal counsel that the work has not been completed. On January 27, 1989, Judge Serdahely effectively ordered the Department to extend the contract through June 30, 1989. A copy of this order will be forwarded to your office when it is received from the Court. Copies of the original court order, professional services contract and contract amendment are included as Attachment V.

Your favorable consideration of this request is appreciated. Please contact me if you require further information.

SEK:cc

6-1112A ✓
Utermohle
3/23/89

Education

Amendment

for HB 154

Funding Information

General Fund	\$ - 0 -
Other Funds	25,000
	<u>\$25,000</u>

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a supplemental appropriation for the
7 operating expenses of state government for the 1989
8 fiscal year; and providing for an effective date."

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

10 * Section 1. The sum of \$25,000 is appropriated from the training and
11 building fund (AS 23.20.130) to the Department of Education, Alaska Voca-
12 tional Technology Center, for additional operating support for the fiscal
13 year ending June 30, 1989.

14 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

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MEMORANDUM

State of Alaska
Department of Education

TO: Alison Elgee, Director
Division of Budget Review
Office of Management & Budget

DATE: April 11, 1989

FILE NO:

TELEPHONE NO: 465-2800

FROM: William G. Demmert
Commissioner



SUBJECT: Supplemental Request

The Department respectfully requests authorization to receive and expend \$1,995,010 federal PL81-874 funds designated for PL81-874 eligible special education on-base students. Since the State serves as the PL81-874 applicant for on-base students, these funds are received by the State and passed through to the respective school districts providing the special education program. These funds represent closure on federal fiscal year '87 PL81-874 special education funding issues for the Anchorage, Fairbanks and Kodiak on-base special education students (for state fiscal year 1988 services). These federal funds cannot be used for any other purpose than provision of services as outlined in Individual Education Plans for the specified students.

The Department respectfully requests a supplemental appropriation of \$1,995,010 PL81-874 for Anchorage, Fairbanks and Kodiak on-base special education students. The allocation of funds is as follows:

Anchorage	\$1,060,766
Fairbanks	778,533
Kodiak	155,711
	=====
Total	\$1,995,010

Please contact Mary Hakala at 465-2800 if you need additional information regarding this request.

Attachment

DEPARTMENT OF EDUCATION
WASHINGTON, DC 20002

PAYMENTS FOR MAINTENANCE AND OPERATION OF SCHOOLS
UNDER THE ACT OF SEPTEMBER 30, 1950, 64 STAT. 1100
(Title I of Public Law 81-874, as amended)

SCHEDULE NO MO. 0665	DOCUER NO MO 03937	FISCAL YEAR 87	DATE 03/29/89
APPLICANT NUMBER 11-AK-87-0001		CONGRESSIONAL DISTRICT 137	
TOTAL ADA 7,714.82		TOTAL CURRENT EXPENDITURES 666,289,634	
LOCAL CONTRIBUTION RATE (LCR) A: 3,639.57		B: 3,880.00	
COUNTY UNORGANIZED			

PAYEE: ALASKA STATE DEPT OF ED
AUTHORIZED REP PL 874 TITLE 1
P O BOX F
JUNEAU AK 99811

IN RESPONSE REFER TO J975/S041270131

ENTITLEMENT

SEC 2	ASSESSED VALUE	S	X RATE	S	S		
SEC 3a	ADA	X	RATE	% OF LCR			
(a)(1)	51.40	X	3,639.57	100.0	187,073.90	100.0	187,073.90
(a)(1) LRM		X					
(a)(2)	5,092.45	X	3,639.57	100.0	18,534,328.25	100.0	18,534,328.25
(a)(2) LRM		X					
(a)(2) SPED	579.68	X	5,459.36	150.0	3,164,681.80	100.0	3,164,681.80
(a)(2) MLRM SPED		X					
(a)(2) INDIANS	117.07	X	4,549.46	125.0	532,605.28	100.0	532,605.28
(a)(2) IND SPED	2.85	X	6,824.19	187.5	19,448.94	100.0	19,448.94
TOTAL 3a	5,843.45				22,438,138.17		22,438,138.17
SEC 3b	ADA	X	RATE	% OF LCR			
(b)(1)	99.94	X	582.00	15.0	58,165.08	8.5	4,944.03
(b)(1) LRM		X					
(b)(2)(A)	23.79	X	582.00	15.0	13,845.78	8.5	1,176.89
(b)(2)(A) LRM		X					
(b)(2)(B)	85.66	X	517.20	13.3	44,303.35	8.5	3,765.78
(b)(2)(B) LRM		X					
(b)(3)	82.81	X	646.80	16.7	53,561.51	8.5	4,552.72
(b)(3) SPED	17.13	X	970.00	25.0	16,616.10	8.5	1,412.36
TOTAL 3b	309.33				186,491.82		15,851.78
TOTALS 3a and 3b			6,152.78		22,624,629.99		22,453,989.95
(c)(1) (c) ADD-ON		X			1,061,847.70		
(c)(2) (c) MAXIMUM		X			NA		
OTHER		X					
OTHER		X					
OTHER		X					
OTHER		X					

87-03

PAYMENT

FINAL AFTER FR

TOTAL PAYMENTS SUMMARY			
Sum of line 1 and lines 20 through 26)		22,624,629.99	22,453,989.95
PRIOR PAYMENTS FOR THIS FISCAL YEAR			20,458,979.51
OVERPAYMENT - If line 28 is greater than line 27 then an overpayment of this amount exists.			
AMOUNT CERTIFIED FOR CURRENT PAYMENT THIS FISCAL YEAR (line 27 minus line 28)			1,995,010.44
DEDUCTIONS FOR PRIOR OVERPAYMENT(S)			
Fy \$	Fy \$	TOTAL \$	
Fy \$	Fy \$		
AMOUNT OF PAYMENT TO APPLICANT (line 30 minus line 31)			1,995,010.44

DEC

AMENDMENT

BY SHULTZ

HOUSE BILL 302

PAGE 2, LINE 11

ADD NEW SECTION TO READ:

Sec. 8. The sum of \$65,000 is appropriated from the general fund to the Department of Environmental Conservation for a grant under the village safe water program to the Alaska Gateway School District/Dot Lake School to ~~repair~~ the sewer and upgrade the water system. *Repair*

Sec. 9. The sum of \$78,000 is appropriated from the general fund to the Department of Environmental Conservation for a grant under the village safe water program to the Alaska Gateway School District/Eagle School to repair the power plant system.

Sec. 10. The sum of \$94,000 is appropriated from the general fund to the Department of Environmental Conservation for a grant under the village safe water program to the Alaska Gateway School District/Northway School for emergency septage repair.

DF+G

MEMORANDUM

State of Alaska

TO: Fred Fisher
Budget Analyst
Division of Budget Review
Office of Management and Budget

DATE: April 14, 1989

FILE NO

TELEPHONE NO: 465-4120

FROM: *[Signature]* Beverly Reaume
Director
Division of Administration
Department of Fish and Game

SUBJECT: Reduction in Licensing Supplemental

We are now at a point in the fiscal year where we can more accurately predict expenditures for the Licensing Program. A few of the costs incurred have been lower than originally anticipated. We, therefore, request that the Licensing Supplemental be reduced as follows:

Personal Services	\$30.0
Travel	1.0
Contractual	3.0
Equipment	<u>26.0</u>
Total	\$60.0

The personal services savings were created by not capturing data from the 1989 licenses during the period from January through May. We will begin this data entry in June and maintain a large data entry crew during the summer to "catch-up" on the backlog.

Equipment savings were realized by transfer of a control unit, microcomputers and copier from the Division of Administration to the Licensing Section. Savings in the contractual services reflect fewer payments on the page scanner this fiscal year. Travel costs are reduced by one fewer meeting in Anchorage and Fairbanks with regional staff on the Licensing Program.

Please let me know if you have any questions.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-483-3366

MARICULTURE TASK FORCE FUNDING

The Alaska Environmental Lobby strongly supports funding for the Mariculture Task Force. It is essential that it be included in HB 100, the FY90 Budget.

Mariculture is a controversial issue. Both sides have been left with unanswered questions. The Mariculture Task Force is a necessary step toward gaining unbiased information about finfish farming. Only with such information is it possible to evaluate the potential environmental, biological, social and economic impacts of finfish farming in Alaska. Without such action, mariculture will continue to be a formidable stumbling block in the resolution of coastal land and resource use conflicts.

The Washington State Draft Programmatic Environmental Impact Statement (EIS) on fish culture in floating net pens should serve as a model for an Alaskan study, not as a substitute. Its evaluation of the finfish farming issue in Washington is site specific; its conclusions cannot be considered valid for Alaska. The task force must first compile and learn from finfish farming experiences worldwide, then carry out its own investigation to accommodate the unique biological, economic, and social conditions of Alaska. Key concerns must be clearly identified, so a well-informed public debate can focus on those areas and good public policy decisions can be made.

The \$50,000 allocation is insufficient. The Mariculture Task Force has a number of important duties, but lack of funding has prevented any action. The \$50,000 requested by the Governor's FY90 Budget represents a minimum level of funding. Additional funds for the Mariculture Task Force are necessary to enable it to truly accomplish its assigned tasks.

Funding of the Mariculture Task Force is of utmost importance. The critical issues of land and water use, environmental quality, coastal management, and social and economic impacts surrounding the introduction of finfish mariculture in Alaska must be thoroughly evaluated. Good public policy demands proper consideration of these important issues.

Karen Brewster
April 11, 1989

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB
KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY
DENALI CITIZENS' COUNCIL • ALASKA FRIENDS OF THE EARTH • JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY
KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • ALASKA WILDLIFE ALLIANCE
SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL
KNIK KANOERS AND KAYAKERS

MEMORANDUM

State of Alaska

RECEIVED

TO: Alison Elgee
Director
Division of Budget Review
Office of Management and Budget

DATE March 17, 1987

FILE NO:

TELEPHONE NO. 465-4100

BUDGET REVIEW

FROM: Don W. Collinsworth *DWC*
Commissioner
Department of Fish and Game

SUBJECT Department of Fish
and Game Audit Reports
for FY 86 and FY 87

The Division of Legislative Audit has completed an audit of the Department of Fish and Game for FY 87. That audit reports several deficiencies for the Division of Wildlife Conservation (DWC) for FY 86 and FY 87.

First, the report shows that DWC incurred a shortfall of \$241,765.34 in FY 86 appropriated federal receipts creating an overexpenditure of general fund. The shortfall of federal receipts is attributable to several factors:

1. DWC did not request additional federal funds to the extent available under funding from U.S. Fish and Wildlife Service, Pittman-Robertson Program (PR). In addition, DWC and the Division of Administration failed to foresee the need to restrict budgetary authorizations not funded through a federal grant or contract.

Additional funding was available from PR and sufficient budget authorization existed in the FY 86 operating budget. However, DWC did not recognize the need for the additional funding.

2. Inadequate record keeping contributed to the problem, partly related to difficulties with the "new" accounting system (see item 3 below) and, to some degree, to inadequacies in the accounting practices of DWC. Lack of accounting system training, confusion over changes required by the new system, slow evolution of support for the new system beyond the Juneau area, and the complexity of "other" factors contributing to the problem made clear the potential for difficulties.
3. State fiscal year 1986 was the first year of operation under the new accounting system. Many aspects of the accounting system were confusing and not readily understood by the users. FY 86 was also the first year of payback on the Retirement Incentive Program (RIP). Agencies were struggling to identify lapsing funds that could be applied to the RIP debt. As FY 86 came to a close, monies were shuffled in and out of RIP as the changing balances in the operating programs dictated. In FY 86, DWC contributed \$202,500.00 to the retirement of their RIP debt, which at that time appeared to have been lapsing general funds.

The net result of the factors noted above was that sound and accurate financial information was not available to the department and the program and project managers.

Second, the DWC overspent a total of \$4,643.93 in federally funded operating appropriations. Two of these originated in FY 86 and carried forward into FY 87 and four were FY 87 authorizations. These operating appropriations were overspent prior to the close of the federal program and no additional federal funds were available. We have checked with the appropriate federal agencies and no funds currently exist to pay the overexpenditure. In addition, the appropriations were not cleared of the overexpenditure prior to the close of the fiscal period which limits the remedy to requesting a supplemental appropriation as the only method of fixing the problem.

Since FY 87, DWC has instituted procedures and controls that will prevent similar problems from occurring in the future. The DWC is monitoring all appropriations and appropriated revenues to insure that overexpenditures do not occur. The Division of Administration is backing up the monitoring performed by all divisions (including DWC) with routine reviews of their appropriations. We are confident that the problems identified here are unlikely to occur now, or in the future.

The Department of Fish and Game requests a supplemental appropriation to clear these problems. This request is for additional general funds, but also proposes appropriation of fish and game funds to fund the FY 86 and FY 87 revenue shortfalls, as follows:

<u>Source of Funds</u>	<u>Amount</u>
General Fund Supplemental	\$140,000.00
Appropriated Fish and Game Funds	<u>106,409.27</u>
Total Funding	\$246,409.27

These funding sources will be applied as follows:

<u>FY</u>	<u>Appropriation Description</u>	<u>Funding Source</u>	<u>Amount</u>
86	Game (DWC) Operating AR	GF Supplemental F&G Funds	\$135,356.07 <u>106,409.27</u>
	Sub-Total		\$241,765.34
86	Pinniped NMFS (AR-41942)	GF Supplemental	\$1,795.53
86	USFS Bear Tooth (AR-41964)	GF Supplemental	733.38
87	Peregrine Falcon (AR-41977)	GF Supplemental	2,049.52
87	Deer/Wolf Study (AR-41965)	GF Supplemental	21.28
87	USF&WS Caribou (AR-42717)	GF Supplemental	3.00
87	USFS Bear Tooth (AR-41967)	GF Supplemental	<u>41.22</u>
	Total		\$246,409.27

Accordingly, the Department of Fish and Game, Division of Wildlife Conservation, requests the following actions:

1. The appropriation of \$135,356.07 from general funds to the FY 86 Game operating component;
2. DWC will be requesting authority to receive and expend an additional \$17,000.00 in FY 89 federal authorization. The request, see enclosed RPL, will increase the total FY 89 federal receipt authorization. The additional federal authorization is "new" federal funds not previously anticipated;
3. The appropriation of \$106,409.27, as new funds, from the Fish and Game fund to the FY 86 Game operating component replacing federal receipt authorization. The overexpended amount is eligible as expenditures under the Fish and Game fund;
4. The appropriation of \$1,795.53, as new funds, from the general funds to the FY 86 NMFS Pinniped appropriation increasing the authorized funding level of AR-86-41942;
5. The appropriation of \$733.38, as new funds, from general funds to the FY 86 USFS Bear Tooth appropriation increasing the authorized funding level of AR-86-41964;
6. The appropriation of \$2,049.52, as new funds, from general funds to the FY 87 Peregrine Falcon appropriation increasing the authorized funding level of AR-87-41977;
7. The appropriation of \$21.28, as new funds, from general funds to the FY 87 Deer/Wolf Study appropriation increasing the authorized funding level of AR-87-41965;
8. The appropriation of \$3.00 as new funds, from general funds to the FY 87 USF&WS Caribou appropriation increasing the authorized funding level of AR-87-42717;
9. The appropriation of \$41.22, as new funds, from general funds to the FY 87 Deer/Wolf Study appropriation increasing the authorized funding level of AR-87-41967.

The Department of Fish and Game, Division of Wildlife Conservation, respectfully requests your consideration for support and approval of this request. My staff and I are available to discuss this matter with you or your staff at any time.

cc: Lew Pamplin
Beverly D. Reaume

* Sec. _____. (a) The sum of \$83,000 is appropriated from the general fund to the Department of Health and Social Services to meet increased demands on state agency operations for Public Assistance, Emergency Medical Services, and Public Health Administration directly relating to the Exxon Valdez oil spill.

(b) The unexpended and unobligated portion of the appropriation made by this section lapses February 15, 1990.

INCREMENT/DECREMENT DESCRIPTION (Limit to 98 characters)

Oil Spill - Public Assistance Field Services

AGENCY CONTACT/PHONE NUMBER:

Frank Hickey

465-3082

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

This increment provides travel funding for DPA Eligibility workers for transportation and per diem to communities directly impacted by the Valdez Oil Spill. It is anticipated that demand for public assistance services will increase and this increment will enable the Division to respond to potential emergency service requests, above and beyond our normal, planned service requirements.

The communities of Prince William Sound are heavily dependent upon subsistence hunting and fishing for basic food supplies, which may be either disrupted or destroyed by the oil spill. We anticipate unusually high demand for food stamps in these communities during FY90. In addition, the expected influx of job seekers and curious individuals, many of whom can be expected to lack basic resources is expected to produce extraordinary demands for services, based on prior experience with summer work seekers.

Special trips will be necessary to take applications for assistance, verify information obtained from applications, complete required interviewing and determine eligibility. The additional travel resources will help ensure timely action in the event of unusually severe service demands resulting from the spill.

Transportation for field trips to communities directly impacted by the spill is 6.4 and per diem of 3.6. Total increment travel request is 10.0.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel	10.0	
300	Contractual Services		
400	Supplies		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		10.0	
I-A Transfer (NON-ADD)			
1002	Federal Receipts	4.0	
1003	General Fund Match	4.0	
1004	General Fund	2.0	
1005	GF/Program Receipts		
1007	I-A Receipts		
POSITION INFORMATION		PFT	
		PPT	
		Non Permanent	
		Staff Months	
<input type="checkbox"/> Enhance Existing Service		<input type="checkbox"/> Formula Program New Facility Oper.	
<input checked="" type="checkbox"/> Compared to FY 89			
<input type="checkbox"/> New Service Compared to FY 89			
<input type="checkbox"/> Continuation of FY 89			
<input checked="" type="checkbox"/> Service Level			
IMPACT FROM CAPITAL PROJECT (NAME)			
Chapter _____ SLA _____ Page/Line _____			

AGENCY Health and Social Services

BRU Public Assistance Administration

COMPONENT Eligibility Determination

PROJECT _____

FY 90

Page 1 of 1

Revised Date _____

C5

INCREMENT/DECREMENT REQUEST

Agency Priority _____ of _____

INCREMENT/DECREMENT DESCRIPTION (Limit to 98 characters)
 Oil Spill - DRSS Coordination

AGENCY CONTACT/PHONE NUMBER:
 Frank Hickey / 465-3082

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

The Department of Health and Social Services disaster plan calls for the Division of Public Health to be responsible for the coordination and monitoring of department services in the event of a disaster. This role has been assumed for the Valdez Oil Spill. This has meant that division staff work full-time on the oil spill, deferring regular work loads. Due to the extent of this disaster, the division anticipates continuing its coordination role into FY90.

The Division of Public Health is the office with the authority to request assistance from the Centers for Disease Control (CDC), Environmental Health Division, Atlanta, Georgia. The division is expected to maintain regular contact with CDC to report the progress of the cleanup and to request assistance from CDC for other departments. CDC has been providing technical assistance to Alaska since March 27. In addition, official reports to President Bush about the oil spill have been provided via public health's link to CDC.

The major role that the division will play in the ongoing cleanup is the management of all scientific information that will be forthcoming. Testing of water and animals is now underway by Exxon, the Coast Guard, the state Department of Environmental Conservation laboratories, and the Food and Drug Administration (FDA) laboratory. Federal and state agencies will be using a variety of analytical methods and different testing sites in the analysis of data. Confusion is a given under these circumstances.

Strict guidelines for testing, consolidation of scientific data relevant to oil spills,

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services	23.0	
200	Travel	6.0	
300	Contractual Services	4.5	
400	Supplies		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		33.5	
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	33.5	
1005	GF/Program Receipts		
1007	I-A Receipts		
POSITION INFORMATION		PFT	
		PPT	
		Non Permanent	1
		Staff Months	6

<input type="checkbox"/> Enhance Existing Service	<input type="checkbox"/> Formula Program New Facility Oper.
<input checked="" type="checkbox"/> Compared to FY89	
<input checked="" type="checkbox"/> New Service Compared to FY89	
<input type="checkbox"/> Continuation of FY89	
<input checked="" type="checkbox"/> Service Level	

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Page/Line _____

Health & Social Services

AGENCY _____
 State Health Services
 BRU _____
 Public Health Admin Services
 COMPONENT _____
 PROJECT _____

FY 90

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C5 INCREMENT/
 DECREMENT
 REQUEST
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and the professional analysis and interpretation of all the scientific data will be critical to knowing if the environment and the human beings in the environment are safe.

The division must maintain regular communication with the Departments of; Fish & Game, DEC, Labor, Community & Regional Affairs, and other state agencies. Communication must also be maintained with the following federal agencies; Alaska Area Native Health Service, CDC, FDA, Department of Agriculture, and others. In addition, multiple local agencies, i.e. community mental health centers and Native health corporations also must be kept informed of the progress of the cleanup and the status of the health and safety of their clients.

This information management task is a full-time job. The division director of public health is currently working 3/4 to full-time on the oil spill.

The coordination role is expected to become a routine function in FY90 and a non-permanent position is requested to enable the division to continue this role with a full-time position for six months. This will permit existing division staff to meet their regular, on-going responsibilities. Existing staff is not available to dedicate to this long term disaster.

Personal Services: Non-permanent, H&SS Planner II, Range 19, Juneau, 6 months

Travel: Transportation and per diem to Valdez and other sites (4 trips)

Contractual: Communications costs (telephone, postage)

C5

ADDITIONAL
EXPLANATION
FORM

AGENCY Health & Social Services
BRU State Health Services
COMPONENT Public Health Admin Services

FY 90

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Revised Date: _____

INCREMENT/DECREMENT DESCRIPTION (Limit to 98 characters)
 Oil Spill - Emergency Medical Services (EMS) Personnel

AGENCY CONTACT/PHONE NUMBER:
 Frank Hickey / 465-3082

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

The Department of Health and Social Services (DHSS) disaster plan calls for the Division of Public Health to be responsible for the coordination and monitoring of department services in the event of a disaster. This role has been assumed for the Valdez Oil Spill. Staff from the State EMS office (located in Juneau) must be present at the Emergency Operations Center (EOC) in Valdez to prepare for emergency response regarding any health issue. The professional staff from the State EMS office will staff the EOC continuously, with the four staff members rotating on a weekly basis.

EMS staff serve as representatives for all of DHSS at the EOC. They are involved in the assessment of all disaster and cleanup issues such as transients with no place to eat or sleep and mental health problems of residents and workers. These EMS staff have had direct responsibility for establishing emergency medical rescue plans, EMT training, injury prevention, and water safety. All of these tasks will require ongoing activity during the oil spill cleanup.

As the local representative, the EMS staff on-site are the link for the department to provide a status report so that appropriate interventions can be provided by other department staff or its grantees. These include; housing, crisis intervention, alcohol & drug abuse problems, inquiry into reports of family violence, and epidemiological investigations.

With 1 to 2 staff required to serve the EOC in Valdez, the EMS office in Juneau is reduced to 2 to 3 professional staff to continue its normal operations. A non-permanent position is requested to enable the State EMS office to continue its normal

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services	14.5	
200	Travel	25.0	
300	Contractual Services	4.0	
400	Supplies		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		43.5	
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	43.5	
1005	GF/Program Receipts		
1007	I-A Receipts		

POSITION INFORMATION	PFT		
	PPT		
	Non Permanent	1	
	Staff Months	6	

<input type="checkbox"/> Enhance Existing Service <input type="checkbox"/> / Compared to FY 89	<input type="checkbox"/> Formula Program
<input type="checkbox"/> New Service Compared to FY 89	<input type="checkbox"/> New Facility Oper.
<input type="checkbox"/> Continuation of FY 89 <input type="checkbox"/> / Service Level	

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Page/Line _____

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Agency Priority _____ of _____

AGENCY Health & Social Services
 State Health Services

BRU EMS Training & Licensing

COMPONENT _____

PROJECT _____

FY 90

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Revised Date: _____

administrative and program functions. The beginning of each fiscal year requires additional administrative work to enact new grant agreements, close out prior year grants, and prepare the new budget request.

Transportation and per diem is requested to travel the professional staff to and from Valdez on a weekly basis to staff the EOC.

Personal Services: Non-permanent, Admin. Assistant I, Range 12, Juneau, up to 6 months

Travel: Transportation and per diem for professional staff to Valdez and other sites.

Contractual: Communications costs (telephone, postage)

C5

ADDITIONAL
EXPLANATION
FORM

AGENCY Health & Social Services
BRU State Health Services
COMPONENT EMS Training & Licensing

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Revised Date: _____

DH435



KETCHIKAN GATEWAY BOROUGH

344 Front Street
Ketchikan, Alaska 99901
(907) 225-2211

February 14, 1989

House Finance Committee

Reference #154

I am the local administrator for the Day Care of Ketchikan. There are 70 people enrolled in the day care program that consists of...

You will find that House Bill #154 is a bill that the Finance Committee for consideration on February 14, 1989. The purpose of this bill is your approval of the Supplemental Funding through the short fall of state fiscal year in FY90. Ketchikan will run out of funds...

It is another problem that has not been solved and that is the Day Care Waiver. Parents of children who are Assistants for their children, these single parents have been going to the assistance of "State Day Care" to assist them. There are many parents that have been working that will be going on the welfare program. Wages, day care cost and basic living expenses. We hope that additional funding will help them keep their self esteem and dignity for their families.

Sincerely

Linda Inglis

Linda Inglis
Local Day Care Administrator
Day Care Assistance Program

LABOR

* Sec. _____. (a) The sum of \$472,800 is appropriated from the general fund to the Department of Labor to meet increased demands on state agency operations for Occupational Safety and Health Monitoring, Employment Services staffing, and Local Hire Promotion and Enforcement directly relating to the Exxon Valdez oil spill.

(b) The unexpended and unobligated portion of the appropriation made by this section lapses February 15, 1990.

MEMORANDUM

State of Alaska

TO: Alison Elgee, Director
Division of Budget Review
Office of Management & Budget

DATE: April 14, 1989

FILE NO:

TELEPHONE NO: 465-2700

FROM: Jim Sampson, Commissioner
Department of Labor

SUBJECT: Supplemental Budget
Requests for Valdez
Oil Spill

The Department of Labor requests your approval of three general fund supplemental budget requests related to the Valdez oil spill. Some of the expenditures in the requests will be submitted to the Exxon corporation for their reimbursement. However, we do not know at this time how much if any Exxon will reimburse.

Employment Services Component

Shortly after the spill a large influx of job seekers descended upon Valdez. The Job Service Office there began immediately registering job applicants and matching them with the many jobs created by the spill. At times there were between 200 and 300 people in line waiting to be registered. This large increase in workload necessitated overtime and additional trained Job Service staff being sent in from Anchorage. Additionally, the Cordova area experienced a dramatic increase in jobs and job seekers. We have temporarily stationed a Job Service employee there to handle applications and fill job orders. A summary of costs anticipated since the spill until the end of the year associated with this additional staffing is as follows:

Overtime	\$15.8
Salary for Additional Staff for Valdez and Cordova	\$15.7
Travel & Per Diem for existing staff working in Valdez	\$14.4
Supplies and equipment (Answering machine, etc.)	\$ 1.3
Data Processing overtime to allow processing on weekends	\$ 1.8
TOTAL	\$49.0

Occupational Safety & Health Component

The dramatic increase in work related to the oil spill cleanup has also increased workers exposure to occupational hazards in the Valdez area. To monitor the safety of the workers involved in cleanup activities, we have dispatched two inspectors from the Anchorage office. We plan to rotate our employees there so we maintain two inspectors for the remainder of the fiscal year. Due to the severe shortage of housing in Valdez, we rented a motorhome in Anchorage and now

Valdez supplemental

(2)

April 14, 1989

have it stationed in Valdez. A summary of the costs associated with this monitoring effort is as follows:

Overtime	\$ 8.0
Travel to and from Valdez	\$ 7.0
Per diem for those employees stationed in Valdez	\$14.4
Motor Home rental for remainder of year	<u>\$ 9.7</u>
TOTAL	\$39.1

Commissioner's Office Component

I have already traveled twice to Valdez and expect to go there two more times before the end of the year. Also, we purchased float coats and boots for our staff stationed there for their protection. A summary of costs is as follows:

Travel and per diem for Commissioner	\$ 3.5
Protective clothing for inspectors	<u>.5</u>
TOTAL	\$ 4.0

The total departmental request is therefore \$92.1. As mentioned above we will be submitting most of these expenditures through the claim procedure outlined by Mike Nizich for possible reimbursement by Exxon. If we are not reimbursed, however, we will need the entire amount.

Let me know if you have any questions.

MEMORANDUM


State of Alaska

TO: Alison Elgee, Director
Division of Budget Review
Office of Management & Budget

DATE: April 25, 1989

FILE NO:

TELEPHONE NO: 465-2700

FROM: Jim Sampson, Commissioner
Department of Labor 

SUBJECT: FY 90 Budget
Amendments for
Valdez Oil Spill

Last week I submitted two budget amendments due to the Valdez oil spill. Now that we know more about the huge effects the clean up work is having on the labor force in that area, I need to revise those amendments and add a third. Attached are the amendments totalling \$455.7 of general funds. I consider these amendments essential to the labor force of Alaska.

If you have any questions, please contact me.

Attachments

INCREMENT / DECREMENT DESCRIPTION (Limit to 98 characters)
Additional Occupational Safety & Health Monitoring Due to Valdez Oil Spill

AGENCY CONTACT / PHONE NUMBER: Richard Arab, 465-4856

DESCRIBE WHY THIS INCREMENT / DECREMENT IS NEEDED AND WHAT IT PURCHASES:

The oil spill in Valdez presents many health hazards to the workers involved in the clean up effort. They may be exposed to toxic chemicals, safety hazards, and climatic hazards. In order to effectively monitor this clean up effort additional staff are needed for the Occupational Safety & Health program. Additional monies for the Alaska Health Project to assist the Department are also requested.

The additional staffing would be as follows:

Valdez
 1 full time Industrial Hygienist to conduct air samples and other industrial health samples to assure workers are not exposed to toxic substances \$68.2

1 part time (6mo.) Compliance Officer to check the safety measures being used by the clean up companies \$27.7

Seward
 1 full time Compliance Officer to check safety measures being used by the clean up companies \$52.4

Travel (15.0) includes trips to inspect worksites where the work is occurring. Travel by chartered helicopters, planes, etc. to get to remote clean-up sites is anticipated.

Supplies includes normal position costs (.6) plus personal protective equipment (6.0) such as hard hat, float coat, respirator, etc.

Contractual includes normal position costs (12.0) plus two leased cars (7.0).

Equipment includes safety test equipment (12.0) such as a carbon monoxide meter, organic vapor meter, noise meter, etc.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services	148.3	148.3
200	Travel	15.0	15.0
300	Contractual Services	19.0	19.0
400	Supplies	6.6	6.6
500	Equipment	12.0	12.0
600	Land, Buildings, Etc.		
700	Grants, Claims, Etc.	75.0	0.0
800	Miscellaneous		
TOTAL		275.9	200.9
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	275.9	200.9
1005	Program Receipts/GF		
1007	I-A Receipts		
POSITION INFORMATION		PFT	2.0
		PPT	1.0
		Non Permanent	
		Staff Months	30.0

- | | |
|---|--|
| <input type="checkbox"/> Enhance Existing Service Compared to FY 89 | |
| <input type="checkbox"/> New Service Compared to FY 89 | <input type="checkbox"/> Formula Program |
| <input type="checkbox"/> Continuation of FY 89 Service Level | <input type="checkbox"/> New Facility Operations |

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Page/Line _____

(continued)

INCREMENT/ DECREMENT REQUEST
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AGENCY Department of Labor
BRU Labor Standards and Safety
COMPONENT Occupational Safety and Health
PROJECT

FY 90

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Additional Occupational Safety & Health Monitoring Due to Valdez Oil Spill (continued)

The grant to the Alaska Health Project (\$75.0) would be to establish a system to monitor possible hazardous exposures and medical effects among oil spill clean up workers. The grant would be used to develop a protocol to assess: exposures to hazards at work, adequacy of training and protective measures at work, and medical monitoring of workers. The grant would also be used to develop a data analysis plan, including: forms to record observations and tests, data transmittal, storage and analysis, and quality control procedures in testing, data recording and data processing. And finally, the Health Project would develop a data reporting system to do the following: defining responsibility for data analysis and reporting, define mechanisms for review of findings and reports, and define conditions under which reports will be released to the public.

C-5

**ADDITIONAL
EXPLANATION
FORM**

AGENCY Department of Labor
BRU Labor Standards & Safety
COMPONENT Occupational Safety & Health

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Revised Date: _____

FY 90

INCREMENT / DECREMENT DESCRIPTION (Limit to 98 characters)

Additional Travel to Promote Alaska Hire

AGENCY CONTACT / PHONE NUMBER: Jim Sampson, 465-2700

DESCRIBE WHY THIS INCREMENT / DECREMENT IS NEEDED AND WHAT IT PURCHASES:

Additional travel funds are needed to promote Alaskan Hire among the firms involved in the Valdez oil spill cleanup. The many jobs created by the spill has resulted in publicity in the lower 48 states of the high wages and easily available jobs associated with the spill. There are currently many unemployed Alaskans available to fill those jobs. The companies recruiting the clean up workers must be persuaded to give Alaskans first priority at available jobs.

The recruiting effort began in Valdez, but has now spread to other cities such as Cordova, Seward, Homer, and Kenai. Additional travel by the Commissioner and his staff will be needed this summer to continue the promotional effort.

The additional funds are necessary because the existing budget for travel is insufficient to meet the demands of the oil spill.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel	7.5	
300	Contractual Services		
400	Supplies		
500	Equipment		
600	Land, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		7.5	
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	7.5	
1005	Program Receipts/GF		
1007	I-A Receipts		
POSITION INFORMATION		PFT	
		PPT	
		Non Permanent	
		Staff Months	
<input type="checkbox"/> Enhance Existing Service Compared to FY 89			
<input type="checkbox"/> New Service Compared to FY 89		<input type="checkbox"/> Formula Program	
<input type="checkbox"/> Continuation of FY 89 Service Level		<input type="checkbox"/> New Facility Operations	
IMPACT FROM CAPITAL PROJECT (NAME) _____ Chapter _____ SLA _____ Page/Line _____			

INCREMENT/ DECREMENT REQUEST
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AGENCY Department of Labor
BRU Commissioner's Office
COMPONENT Commissioner's Office
PROJECT

FY 90

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INCREMENT / DECREMENT DESCRIPTION (Limit to 98 characters)
Additional Job Service Staffing Required Due To Valdez Oil Spill

AGENCY CONTACT / PHONE NUMBER: Judy Knight, 465-2712

DESCRIBE WHY THIS INCREMENT / DECREMENT IS NEEDED AND WHAT IT PURCHASES:

Due to the Valdez oil spill, additional staffing is required by Job Service to handle the large influx of job applicants looking for work in the clean-up efforts. Shortly after the spill the Job Service office workload in Valdez dramatically increased. Now that the spill has moved down the peninsula, large numbers of workers are also looking for work in Seward, Cordova, Homer, and Kenai. Since the clean-up efforts are expected to continue for some time, the following additional staffing is required:

<u>Valdez</u>	
1 Full Time Employment Security Specialist IB	\$46.5
1 Seasonal (6 mo.) Employment Security Specialist IB	\$23.3
<u>Seward</u>	
1 Seasonal (6 mo.) Employment Security Specialist IB	\$21.5
<u>Cordova</u>	
1 Seasonal (6 mo.) Employment Security Specialist IB	\$22.5
<u>Homer</u>	
1 Seasonal (6 mo.) Employment Security Specialist IB	\$20.0
<u>Kenai</u>	
1 Seasonal (6 mo.) Employment Security Specialist IB	\$20.0
TOTAL PERSONAL SERVICES	\$153.8

These positions will register job applicants and match them with jobs created by the spill.

The normal costs for contractual services, supplies, and equipment associated with these new positions would be incurred.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services	153.8	
200	Travel		
300	Contractual Services	15.0	
400	Supplies	1.0	
500	Equipment		
600	Land, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		172.3	
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	172.3	
1005	Program Receipts/GF		
1007	I-A Receipts		
POSITION INFORMATION		PFT	1.0
		PPT	5.0
		Non Permanent	
		Staff Months	42.0
<input type="checkbox"/> Enhance Existing Service Compared to FY 89			
<input type="checkbox"/> New Service Compared to FY 89		<input type="checkbox"/> Formula Program	
<input type="checkbox"/> Continuation of FY 89 Service Level		<input type="checkbox"/> New Facility Operations	
IMPACT FROM CAPITAL PROJECT (NAME) _____ Chapter ____ SLA ____ Page/Line ____			

INCREMENT/DECREMENT REQUEST
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AGENCY Department of Labor
BRU Employment Security
COMPONENT Employment Services
PROJECT _____

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 Revised Date: _____

SWACK
#I-1
LAW

INTENT

OIL SPILL LITIGATION

DEPT. OF LAW

It is the intent of the 16th Legislature that any funds appropriated to the Department of Law, for oil spill litigation stemming from the grounding of the tanker EXXON VALDEZ, will not be used to develop long term employees. The Department shall assure that any positions needed to supervise the contractual services, and perform other necessary in-house tasks will be deleted upon completion of the litigation. The Department of Law will verify their compliance with this intent by the 15th day of the second session and in conjunction with their status report on the oil spill litigation.

EXPLANATION OF ANTICIPATED EXPENDITURES

OIL SPILL LITIGATION

(The expenditures are based on a 14 months, 5-1-89 to 6-30-90)

	<u>PROSECUTION*</u>		
	'89	'90	Total

Personal Services	80.8	482.6	563.4
Non-personal svcs	134.0	382.4	516.4

	214.8	865.0	1079.8

* Prosecution can not be contracted

	<u>CIVIL LITIGATION</u>		
	'89	'90	Total

Personal Services	82.6	492.7	575.3
Non-Personal Svcs	100.0	182.4	282.4
Contractual Svcs			3200.0

	182.6	675.1	4057.7

Ratio of personal services to contractual is 1:5.6 or, civil litigation personal services represents about 1/7 of the total.

Criminal Prosecution and Civil Litigation units will each be comprised of:

4 Attorneys
2 Para-professionals
2 Legal Secretaries

3 Total Positions

This supplemental request gives the Department 3000.0 of the approximate 5200.0 they anticipate needing, and the opportunity to come back to the legislature in January with a better accounting of their needs.

Rep. C.E. Swackhammer

SWACK

#0-4

AMENDMENT

CSHB 154 (FIN)

DEPT. OF LAW

Sec. The sum of \$3,000,000.00 is appropriated from the General fund to the Department of Law as an initial reserve fund for expenditures related to the Tanker Exxon Valdez oil spill.

Oil Spill/ Department of Law

Briefly, the Dept. of Law is staffing two teams for the oil spill. Each team will be comprised of four attorneys, 4 paralegals and 2 secretaries. One team will be assigned to the Criminal Section and one to the Civil Section. The Criminal Section intends to use two fulltime investigators from DPS.

Their efforts will be coordinated to prevent duplication of investigation. The Civil Section will receive the greatest amount of funds because they will develop and determine the applicable case laws.

The State has been named in three suits and expect to be named in and undetermined additional number. They expect it will be at least six months before a good guess can be given.

There is a potential for at least 1000 parties making damage claims. Every state employee deposed will have to have an attorney present to safeguard the state's interest.

The Dept. of Law expects the total cost for the first 14 months to be \$5.2 million. \$2.0 million in-house and \$3.2 million for external support.

This amendment provides \$3.0 million and intent language which enables Law to return to the legislature early in the second session of the 16th Legislature to give an accounting and to request additional funds, if needed.

AMENDMENT

CSHB 154 (FIN)

Dept. of Law

* Sec. No funds in this act may be used to pay the State of Washington the sum of \$147,957.00 stemming from the state sales tax suit, WASHINGTON STATE V. ADF&G/PUBLIC SAFETY. Funds included in the FY 1989 budget for the Dept. of Law shall not be used to pay for this decision.

WASHINGTON STATE V. ADF&G/PUBLIC SAFETY \$147,957.00

Tax auditors did not allow state sales tax exemptions for the repair of Alaska vessels at the Duwamish Ship Yard. Their rationale, narrowly interpreted, was the state was liable for the sales taxes because the ship yard did not pick up and deliver the vessels from and to the State of Alaska, or ship the vessels by common carrier.

MEMORANDUM

State of Alaska

Department of Law

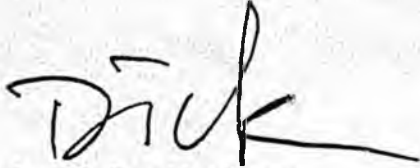
TO: Richard I. Pegues, Director
Administrative Services Division
Department of Law

DATE: February 15, 1989

FILE NO.: 223-87-0083

TEL. NO.: 465-3600

SUBJECT: Duwamish Shipyard Tax
Assessments



FROM: Richard D. Monkman
Assistant Attorney General

You have asked for the background on the judgments against the Departments of Fish & Game and Public Safety in this matter. These are assessments of sales tax by the State of Washington on repair services performed on State of Alaska vessels at a Washington shipyard. The general rule is that sales of goods destined for Alaska are exempt from Washington sales taxes. Similarly, repair work on property (in this case, vessels) is generally exempt from Washington sales tax, by statute and regulation.

However, the Washington Department of Revenue auditors take the position that the general exemption for repair work, when read very narrowly, only applies when the repaired property is either delivered directly to Alaska by the person performing the repairs, or is delivered in Washington to a shipper for direct shipment to Alaska.

In this case, our agencies took their vessels down to Washington, and picked them up again at the shipyard after the repairs were performed. Obviously, it is not practical to ship a vessel up to Alaska by common carrier. The Washington Department of Revenue discovered that the vessels had been picked up at the shipyard during a routine audit of the shipyard's accounts, and assessed sales taxes against the two agencies and the University of Alaska (for repair work done at the same shipyard on the R/S ALPHA HELIX).

We appealed the assessment through the administrative process in Washington, but lost. It is our opinion that further appeal of the decision will not be productive -- the chances of success on appeal are very slim. Appeal will only increase the amount of interest due on the assessment. The Washington Department of Revenue has given us until June 30, 1989 to pay the tax assessments, and the figures I gave you earlier calculate the interest to that date.

RDM:jf

STATE OF ALASKA

DEPARTMENT OF LAW

ADMINISTRATIVE SERVICES DIVISION

STEVE COWPER, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3672

RATIONALE SEC. 6 CSHB 154

February 16, 1989

The Honorable Steve Rieger
Representative - District 8-B
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Rieger:

In response to a request from Rod Mourant of your staff, the following information is being provided concerning the Department of Law's request for a supplemental appropriation to pay court judgments against the state. The department's request is contained in Section 8 of HB 154.

Reid v. State. Amount \$1,033.54. This case involved settlement of a public assistance claim alleging improper disallowance of benefits. The amount is for attorney costs and fees.

State v. Alaska Public TV, Inc.. Amount \$519.80. This case involved a Department of Labor enforcement action. The amount pays attorney costs and fees.

Herrick's Aero Repair Services, et al v. State. Amount \$1,043.75. This case involved a claim by aircraft maintenance service firms, based at the Anchorage International Airport, alleging unequal treatment by the state in requiring liability insurance from the tenant service firms, while the state did not enforce these same requirements from itinerant services firms who provide similar service at the airport. The amount is for attorney costs and fees.

Gregory Cook, Alaska Fish and Wildlife Federation v. State. Amount \$157.67. This case was brought against the state and federal government as a result of their joint efforts to alleviate hunting pressure on nesting waterfowl in Western Alaska. The amount is the state's share of attorney costs and fees.

Trustees for Alaska v. State. Amount \$69,433.99. This case involved the challenge to the state's mineral leasing law's under Section 6(i) of the Alaska Statehood Act. A more complete explanation is attached.

Cleary v. State. Baily & Mason. Amount \$1,231.37. This is an interim payment in this ongoing prisoners' rights litigation. This matter has been subject to Superior Court oversight since 1983. The amount is for attorney costs and fees.

State v. Wasilie Bobby. Amount \$10,967.05. This case involved the seizure of a snowmachine as a result of the taking of a moose out of season, which raised a variety of related fish and wildlife issues. The amount is for attorney costs and fees.

Cleary v. State. Phillip Volland. Amount \$16,028.12. This is another interim payment in this ongoing prisoners' rights matter. This case has been subject to Superior Court oversight since 1983. The amount is for attorney costs and fees.

City of Kotzebue v. State. Amount \$10,912.92. This is a court sanctioned settlement of a substantially larger claim that grew out of the Municipality of Anchorage revenue sharing problem. The amount is for attorney costs and fees.

Kenai Peninsula Borough v. State. Amount \$54,864.67. Crawford v. State. Amount \$25,956.97. These inter-related cases stem from challenges to the 1984 reapportionment plan. The amounts are for attorney costs and fees. A more detailed explanation of these cases is attached.

Washington State v. ADF&G/Public Safety. Amount \$147,957. This is a State of Washington sales tax claim for repair work done on State of Alaska vessels in the Duwamish shipyard. The amount is for unpaid taxes. A more detailed explanation of this matter is attached.

In addition to the judgment supplemental request, the department has also requested \$200,000 to pay for ongoing, increased costs in Weiss v. State. This request is shown in Section 9 of HB 154. An explanation of these costs is also attached.

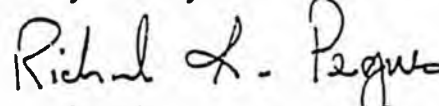
The Department of Law has been using the supplemental appropriation process to pay judgments against the state since the early Nineteen-Sixties. The amounts requested have varied from a low of \$5.5 Thousand to a high in excess \$1.0 Million.

Representative Rieger

February 16, 1989
Page 3

Departmental expenditure records dating back to FY 1972, indicate that on the average, about \$255,000 has been appropriated each year to pay judgments. The amounts paid have increased over the years, reflecting the growth in state government activities. For several years, the department received a small appropriation in its annual operating budget to pay miscellaneous claims, so that smaller, individual claimants would not have to wait until a supplemental appropriation was approved before they could be paid. Judgments up to \$3,000 were usually handled in this manner. The annual operating appropriation had reached \$17,400 in FY 1985, after which it was abandoned by the legislature, as a cost savings measure. Please let me know if I can be of any further assistance.

Very Truly Yours,



Richard I. Pegues, Director
Administrative Services Division

Attachments (4)

cc: Alison Elgee, Director, Division of Budget Review (w/
attachments)
Jay Hogan, House Finance Committee (w/ attachments)
Tom Sutton, Legislative Finance Division (w/ attachments)

RIP:djm

MEMORANDUM

yellow
State of Alaska

DEPARTMENT OF LAW

TO: Grace Berg Schaible
Attorney General

DATE: June 3, 1988

FILE NO:

TELEPHONE NO: 276-3550

THRU:

SUBJECT: Attorney's Fees
in Trustees for
Alaska v. State
of Alaska

FROM:

MPW
Mark P. Worcester
Assistant Attorney General
Oil, Gas and Mining-Anchorage

Attached to this memorandum is the Department of Law form by which requests for appropriations to pay judgments against the state are processed. Pursuant to the instructions in your October 26, 1986 memorandum concerning the procedures for processing requests for supplemental appropriations for payment of judgments against the state, I have prepared the following brief explanation of the circumstances resulting in the judgment.

On November 29, 1983 Trustees for Alaska et al. filed suit against the State of Alaska seeking a declaration that the Alaska statutes governing the acquisition and use of rights in locatable minerals on state lands violate the "lease" condition of section 6(i) of the Alaska Statehood Act. Injunctive relief was also sought. The administration defended the statutory mining system created by the Alaska Legislature. Those efforts at defending the existing state statutes were successful in the Superior Court. Summary judgment was obtained from Judge Serdahely against Trustees for Alaska on June 14, 1985. However, Trustees for Alaska appealed, and on May 1, 1987 the Alaska Supreme Court reversed the State Superior Court decision. Thereafter, the Alaska Supreme Court granted full attorney's fees to the appellants on the ground that they were "public interest" litigants. Upon remand, the superior court issued a final judgment and awarded full attorney's fees and costs for attorneys fees and costs incurred by Trustees for Alaska in the superior court proceedings.

The State of Alaska petitioned the United States Supreme Court to review the decision by the Alaska Supreme Court. The United States Supreme Court did not act until May 31, 1988, at which time it denied the petition for certiorari. There is no further recourse for judicial review of the determinations made, and the attorney's fee and cost awards entered by the Alaska Superior and Supreme Courts are now final.

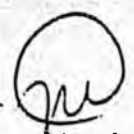
MPW:so
Enclosure

MEMORANDUM

State of Alaska
Department of Law

TO: Dick Pegues, Director
Div. of Administrative Services
Dept. of Law

DATE: February 14, 1989
FILE NO: 223-84-0175 & 223-86-0099
TEL. NO: 465-3600
SUBJECT: Overview of reapportionment cases


FROM: Marjorie L. Odland
Assistant Attorney General
Governmental Affairs-Juneau

As requested, here is an overview of the Alaska Supreme Court's and the superior court's actions with respect to awards of costs and attorney's fees to Kenai Peninsula Borough in the reapportionment cases, Kenai Peninsula Borough v. State of Alaska, Supreme Court No. S-1207, and Carpenter v. Hammond / Kenai Peninsula Borough, et al. v. State of Alaska, Superior Court No. 3AN-81-5839 CIV.

On October 2, 1987, the Alaska Supreme Court reversed in part and affirmed in part the superior court's decision in Kenai Peninsula Borough v. State of Alaska, in which the lower court had upheld the validity of the 1984 state legislative reapportionment plan that was promulgated in an attempt to comply with the supreme court's decision in Carpenter v. Hammond, 667 P.2d 1204 (Alaska 1983). The supreme court viewed the litigation as public interest litigation and ruled that the appellants (Kenai Peninsula Borough and Jim Crawford) were entitled to receive reasonable costs and attorney's fees for services on appeal.

Based on the above, Kenai filed for costs and attorney's fees at both the supreme court and superior court levels. The state filed oppositions to both court filings.

On June 27, 1988, the superior court awarded Kenai Peninsula Borough a total of \$20,000 and awarded the other appellant, Jim Crawford, a total of \$9,500. Jim Crawford filed a motion for reconsideration of the award (claiming it was too low).

On July 12, 1988, the supreme court awarded Kenai Peninsula Borough a total of \$16,287 in attorney's fees and \$2,675.75 in costs. The state filed a motion for reconsideration, claiming the award was too high and unjustified based, in part, upon the superior court's "low" award, and because appellants had won only one point on appeal. (The state had won the other two.) On September 2, 1988, the supreme court denied the state's motion for reconsideration and reaffirmed the original awards.

Dick Pegues, Director
Law - Div. of Admin. Services
223-84-0175 & 223-86-0099

February 14, 1989
Page #2

On August 23, 1988, the superior court granted Jim Crawford's motion for reconsideration of the award of attorney's fees at the trial court level. The state filed a response to the motion for reconsideration on September 13, 1988, opposing any additional costs or attorney's fees be awarded and requesting it to affirm its original order of June 27, 1988.

On December 22, 1988, the superior court issued an order that increased both of the appellants' fee awards. With taxation of costs added to the final judgment on January 13, 1989, the awards at the superior court level totalled: \$32,171.62 for Kenai Peninsula Borough and \$18,013.73 for Jim Crawford.

Hope this is what you need. Give me a call if you need further explanation or information.

MLO/pjg

AMENDMENT

CSHB 154 (FIN)

DEPT. OF LAW

* Sec. The sum of \$200,000.00 is appropriated from the general fund to the Department of Law to pay court ordered plaintiffs' and intervenors' costs in WEISS V. STATE.

MEMORANDUM

State of Alaska
Department of Law

TO: Richard I. Pegues, Director
Administrative Services Division
Department of Law

DATE: February 14, 1989

FILE NO.:

TEL. NO.: 465-3600

SUBJECT: FY 1989 Supplemental
Appropriation Request
Weiss v. State

GTK

FROM: G. Thomas Koester
Assistant Attorney General
Department of Law

This is to summarize the reasons why a supplemental appropriation, in the amount of \$200,000, is needed to pay plaintiffs' and intervenors' costs in Weiss v. State. As you are aware, the state is under court order to pay these costs.

The existing annual budget for this case is \$240,000. It was originally anticipated that all of the parties to this lawsuit would accept the methodology used by the state in determining the value to be assigned to the state's mental health trust lands, and that the annual appropriation would therefore be sufficient to pay plaintiffs' and intervenors' costs. This has proved not to be the case.

Numerous disputes, revolving around the values to be assigned, have arisen between the parties to this lawsuit, and these disputes are still unresolved. Moreover, the Interim Mental Health Trust Lands Commission has yet to determine the extent to which the plaintiffs and intervenors are to be involved in the valuation process. As a result, the costs for plaintiffs' and intervenors' counsel and expert witnesses are rapidly escalating. For instance, the plaintiffs' have hired expert witnesses from as far away as the University of London.

After examining the level of plaintiffs' and intervenors' legal costs through October, it was determined that an additional \$200,000 would be needed to pay anticipated costs through June 30, 1989. This examination also included the anticipated costs for land appraisers, and the minerals, oil and gas, and timber expert witnesses employed by the plaintiffs. And, as you know, administrative services division staff have carefully reviewed the assumptions used in arriving at the \$200,000 request.

Lastly, and even under the current circumstances, the department has regularly and vigorously objected to portions of the amounts requested. The court, having already found the state to have been in violation of its mental health lands trust responsibilities, has approved nearly all of the requested costs.

GTK:djm

MEMORANDUM

State of Alaska

Department of Law

TO: Alison M. Elgee, Director
Office of Management and Budget
Division of Budget Review

DATE: November 23, 1988

FILE NO:

TEL NO: 465-3600

SUBJECT: FY 1989 Supplemental
Appropriation Request
Weiss v. State

Pen
FROM: Grace Berg Schaible
Attorney General

This is to request a supplemental appropriation for FY 1989 in the amount of \$200,000, to pay plaintiffs' and intervenors' costs in Weiss v. State. As you are aware, the state is under court order to pay these costs.

The existing annual budget for this case is \$240,000. It was originally anticipated that all of the parties to this lawsuit would accept the methodology used by the state in determining the value to be assigned to the state's mental health trust lands, and that the annual appropriation would therefore be sufficient to pay plaintiffs' and intervenors' costs. This has proved not to be the case.

Numerous disputes, revolving around the values to be assigned, have arisen and they are still unresolved. Moreover, the Interim Mental Health Trust Lands Commission has yet to determine, or in any way limit, the extent to which the plaintiffs and intervenors are to be involved in the valuation process. As a result, the costs for plaintiffs' and intervenors' counsel and expert witnesses are rapidly escalating. For instance, expert witnesses have been hired from as far away as the University of London.

Lastly, and even under the current circumstances, the department has regularly and vigorously objected to portions of the amounts requested; the court to date has not honored any of the state's objections. Unless either the Administration or the legislature acts to try to change this situation, the Department of Law will remain powerless to control these costs.

GBS:RIP:djm/.ag

DAVID T. WALKER
ATTORNEY AT LAW
MENDENHALL BUILDING
328 FOURTH STREET, SUITE B
JUNEAU, ALASKA 99801
(907) 586-3537

March 20, 1989

HAND DELIVERED

G. Thomas Koester
Assistant Attorney General
Attorney General's Office
Department of Law
P. O. Box K
Juneau, Alaska 99811

Re: Weiss v. State of Alaska,
4FA-82-2208 Civ

Dear Mr. Koester:

The purpose of this letter is to request the State's immediate assistance in obtaining a supplemental appropriation to enable the Plaintiffs to continue their representation of the beneficiaries in this case for the remainder of this fiscal year.

As you know, neither Jim Gottstein nor I have been paid for any work we have performed since July 1, 1988. It has been absolutely necessary to spend all the money appropriated for the case to pay for computer support and to pay the valuation experts as required by the valuation and settlement process established by the Interim Mental Health Trust Commission. At this point in time the money appropriated for this purpose has been expended.

I believe that a supplemental appropriation for this fiscal year of \$323,000 will be required to continue our work and finish the valuation process. I have arrived at the figure using the following estimates:

Past Due attorney fees and expenses (Gottstein and Walker) 07/01/88 through 12/31/88	\$102,000.00
Attorneys fees and expenses for 01/01/89 through 06/30/89 (Gottstein and Walker)	120,000.00

G. Thomas Koester
March 20, 1989
Page 2


Attorneys fees and expenses for Volland (Chronic alcoholics with psychoses)	25,000.00
Appraisers (100 man days)	60,000.00
Computer operations (4 months at 4,000 per month)	<u>16,000.00</u>
Total Estimate:	\$323,000.00

This level of appropriation is necessary to maintain our present level of effort. The effort will drop off dramatically when the valuation is completed. When the valuation process material has been entered into our computer the need for continued efforts by our programmer will be greatly diminished.

This work is vital to the settlement process and must continue if that process is to continue. If we are not able to continue the process and pay our employees and experts and ourselves, then our duty to the beneficiaries will require us to return to the position of protecting all the trust assets from dissipation or diminishment in value.

I need to know from you now whether the State will move immediately to strongly support this request. I realize that you will continue to review our billings and object as you feel appropriate. This addresses the question of the State's ability to pay the court's fee orders in this litigation. I hope that you will strongly recommend this course of action to your clients so that we can go forward without delay.

Very truly yours,



David T. Walker

DTW:ndp

SWACK
I-2

IT IS THE INTENT OF THE LEGISLATURE THAT THE STATE'S LEGAL REPRESENTATION (CIVIL AND CRIMINAL) RESULTING FROM THE VALDEZ EXXON OIL SPILL BE FULLY FUNDED. THE DEPARTMENT OF LAW SHALL ADVISE THE LEGISLATURE BY THE FIFTEENTH DAY OF THE SECOND SESSION OF THE SIXTEENTH ALASKA LEGISLATURE OF THE APPROPRIATIONS THAT WILL BE REQUIRED TO CONTINUE THE STATE'S LEGAL REPRESENTATION IN THESE MATTERS DURING THE REMAINDER OF FY 1990 AND FOR FY 1991.

CSHB 154 (FINANCE)

AMENDMENT #1 TO AMENDMENT #1

BY BARNES

LAW

Judgements and Claims

Delete "183.1"

Insert "170.6"

Sub-Total

Delete "660.1"

Insert "647.6"

No funds in this act may be used to reimburse plaintiffs Clocksin/Finklestein et al. for the election challenge of 1988. Any costs or fees associated with the court case Finklestein v. State may not be paid from state funds included in the FY 1989 - FY 1990 budget.

MEMORANDUM

State of Alaska

Department of Law

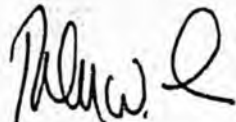

TO: Alison M. Elgee, Director
Office of Management and Budget
Division of Budget

DATE: April 14, 1989

FILE NO:

TEL. NO: 465-3600

SUBJECT: FY 89 Judgment
Supplemental
Revision # 2


FROM:  Douglas B. Baily
Attorney General

This is to revise the Department of Law's request of March 22, 1989 (as corrected on April 11, 1989), for a supplemental appropriation to pay judgments awarded against the state, to include three new judgements. The total amount of the new awards is \$18,813.86, including interest. The department's revised request now totals \$ 375,297.73, including \$147,947 for the Duwamish shipyard/Washington state tax claims.

The three new awards are as follows:

1. Inquiry of a judge. Amount \$1,000. This award pays costs and fees in a supreme court matter that challenged the powers of the Commission on Judicial Conduct.
2. Alaska Ski Corporation v. State. Amount \$202.50. This a miscellaneous award.
3. Cleary v. State. Tim Stearns. Amount \$17,611.36. This is an interim payment to attorney Tim Stearns for his FY 89 work in the Cleary matter.

DBB:RIP:djm/11

Department of Law
FY 89
Supplemental Judgments

4-14-89

<u>Judgment</u>	<u>Date of Judgment</u>	<u>Amount</u>	<u>Interest thru 6/30/89 Anticipated</u>	<u>Total</u>	<u>Cummulative Total</u>
1) AK Legal Svcs Reid v. State	05/25/88	1,000.00	33.54	1,033.54	1,033.54
2) K Clarkson (Perkins Coie) State v. Ak Public TV	08/12/88	514.10	5.70	519.80	1,553.34
3) R Wagntaff Anchorage Internation Airport	04/27/88	1,000.00	43.75	1,043.75	2,597.09
4) Gregory Cook	09/13/88	157.67	-0-	157.67	2,754.76
5) Trustees (4) Ak Trustees v. State	06/10/87 (Supreme) 12/24/87 (Superior)	16,931.79 42,005.98	3,708.77 6,787.45	69,433.99	72,188.75
6) Ashburn & Mason Cleary v. State	10/13/88	1144.26	87.11	1231.37	73,420.12
7) Ak. Legal Services State v. W.P. Bobby	01/23/87	8,708.91	2,258.14	10,967.05	84,387.17
8) Phillip Volland Cleary v. State	11/08/88	15,000.00	1,028.12	16,028.12	100,415.29
9) City of Kotzebue Kotzebue v. State	08/22/88	10,000.00	912.92	10,912.92	111,328.21
10) Kenai Peninsula Boro KPB v. State	07/12/88 (Supreme) 12/22/88 (Superior)	18,944.75 32,171.62	1,956.05 1,792.25	54,864.67	166,192.88
11) Kenneth Jacobus Crawford v. State	07/12/88 (Supreme) 12/22/88 (Superior)	6,290.15 18,013.73	649.56 1,003.53	25,956.97	192,149.85

Department of Law
 FY 89
Supplemental Judgments

<u>Judgment</u>	<u>Date of Judgment</u>	<u>Amount</u>	<u>Interest thru 6/30/89 Anticipated</u>	<u>Total</u>	<u>Cummulative Total</u>
12) Washington State v. ADF&G/Pub. Safety	11/28/88	86,622.00 61,335.00		147,957.00	340,106.85
13) K.D. Owsichek v. State Guide Board	10/21/88	1,589.25	117.27	1,706.52	341,813.37
14) Stephen Marks Stambaugh v. CFEC	02/07/89	1,750.00	73.50	1,823.50	343,636.87
15) Advocacy Svcs/AK White v. API	12/20/88	420.00	-0-	420.00	344,056.87
16) D. Clocksin Finkelstein v. State	03/01/89	12,000.00	427.00	12,427.00	356,483.87
17) Delaney-Wiles Judge Inquiry	10/19/88	1,000.00	-0-	1,000.00	357,483.87
18) Corey Borgeson Ak Ski Corp v. State	02/14/89	202.50	-0-	202.50	357,686.37
19) Timothy Stearns Cleary v. State	04/10/89	17,200.00	411.36	17,611.36	375,297.73
TOTAL		<u>354,001.71</u>	<u>21,296.02</u>	<u>375,297.73</u>	

MEMORANDUM

State of Alaska
Department of Law

TO: Allison M. Elgee, Director
Office of Management and Budget
Division of Budget Review

DATE: April 13, 1989

FILE NO:

TEL. NO.: 465-3600

SUBJECT: Weiss v. State

FROM: Douglas B. Bailey
Attorney General

This is to revise the Department of Law's request, dated November 23, 1988, for a supplemental appropriation to pay Plaintiffs' and Intervenors' costs and fees in Weiss v. State, the Mental Health Trust Lands dispute. As you are aware, the state is under court order to pay these costs. The department had originally requested a \$200,000 supplemental appropriation to pay these costs in FY 1989. The department had already received \$240,000 in its regular operating budget to pay these costs. The regular appropriation has already been fully expended, and Plaintiffs' and Intervenors' attorney fees for the period 7/01/88 through 12/31/88, in the amount of \$102,000, remain unpaid.

The department was recently advised by the Plaintiffs' lead attorney, David T. Walker, that the total shortfall for FY 1989 will be \$323,000. As you are also aware, the department can exercise very little control over these costs. The department does, however, raise objections to the court when, in the department's judgment, Plaintiffs' and Intervenors' costs are unwarranted. To date, the court has not honored any of the state's objections. Consequently, the department's original request for a \$200,000 supplemental appropriation, to pay court-awarded costs in Weiss v. State, should now be increased to \$323,000, the amount of the original supplemental request was based on estimates provided to the department by Mr. Walker. Copies of the department's original request, Mr. Walker's letter, and a summary of Department of Law payments since the inception of the case, through mid-FY 89, are attached for your review.

Attachments (3)

DAVID T. WALKER
ATTORNEY AT LAW
MENDENHALL BUILDING
326 FOURTH STREET, SUITE B
JUNEAU, ALASKA 99801
(907) 586-3537

March 20, 1989

HAND DELIVERED

G. Thomas Koester
Assistant Attorney General
Attorney General's Office
Department of Law
P. O. Box K
Juneau, Alaska 99811

Re: Weiss v. State of Alaska,
4FA-82-2208 Civ

Dear Mr. Koester:

The purpose of this letter is to request the State's immediate assistance in obtaining a supplemental appropriation to enable the Plaintiffs to continue their representation of the beneficiaries in this case for the remainder of this fiscal year.

As you know, neither Jim Gottstein nor I have been paid for any work we have performed since July 1, 1988. It has been absolutely necessary to spend all the money appropriated for the case to pay for computer support and to pay the valuation experts as required by the valuation and settlement process established by the Interim Mental Health Trust Commission. At this point in time the money appropriated for this purpose has been expended.

I believe that a supplemental appropriation for this fiscal year of \$323,000 will be required to continue our work and finish the valuation process. I have arrived at the figure using the following estimates:

Past Due attorney fees and expenses (Gottstein and Walker) 07/01/88 through 12/31/88	\$102,000.00
Attorneys fees and expenses for 01/01/89 through 06/30/89 (Gottstein and Walker)	120,000.00

G. Thomas Koester
March 20, 1989
Page 2

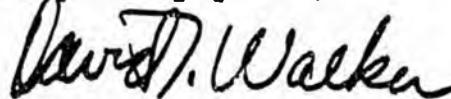
Attorneys fees and expenses for Volland (Chronic alcoholics with psychoses)	25,000.00
Appraisers (100 man days)	60,000.00
Computer operations (4 months at 4,000 per month)	<u>16,000.00</u>
Total Estimate:	\$323,000.00

This level of appropriation is necessary to maintain our present level of effort. The effort will drop off dramatically when the valuation is completed. When the valuation process material has been entered into our computer the need for continued efforts by our programmer will be greatly diminished.

This work is vital to the settlement process and must continue if that process is to continue. If we are not able to continue the process and pay our employees and experts and ourselves, then our duty to the beneficiaries will require us to return to the position of protecting all the trust assets from dissipation or diminishment in value.

I need to know from you now whether the State will move immediately to strongly support this request. I realize that you will continue to review our billings and object as you feel appropriate. This addresses the question of the State's ability to pay the court's fee orders in this litigation. I hope that you will strongly recommend this course of action to your clients so that we can go forward without delay.

Very truly yours,



David T. Walker

DTW:ndp

MEMORANDUM

State of Alaska
Department of Law

TO: Alison M. Elgee, Director
Office of Management and Budget
Division of Budget Review

DATE: November 23, 1988

FILE NO.:

TEL. NO.: 465-3600

SUBJECT: FY 1989 Supplemental
Appropriation Request
Weiss v. State

Paul
FROM: Grace Berg Schaible
Attorney General

This is to request a supplemental appropriation for FY 1989 in the amount of \$200,000, to pay plaintiffs' and intervenors' costs in Weiss v. State. As you are aware, the state is under court order to pay these costs.

The existing annual budget for this case is \$240,000. It was originally anticipated that all of the parties to this lawsuit would accept the methodology used by the state in determining the value to be assigned to the state's mental health trust lands, and that the annual appropriation would therefore be sufficient to pay plaintiffs' and intervenors' costs. This has proved not to be the case.

Numerous disputes, revolving around the values to be assigned, have arisen and they are still unresolved. Moreover, the Interim Mental Health Trust Lands Commission has yet to determine, or in any way limit, the extent to which the plaintiffs and intervenors are to be involved in the valuation process. As a result, the costs for plaintiffs' and intervenors' counsel and expert witnesses are rapidly escalating. For instance, expert witnesses have been hired from as far away as the University of London.

Lastly, and even under the current circumstances, the department has regularly and vigorously objected to portions of the amounts requested; the court to date has not honored any of the state's objections. Unless either the Administration or the legislature acts to try to change this situation, the Department of Law will remain powerless to control these costs.

GBS:RIP:djm/.ag

KNOWN COSTS AND FEES IN WEISS v. STATE AS OF 3/17/89 */

Stephen C. Cowper

Fees	\$ 19,537.50
Costs	\$ <u>1,099.97</u>

Total for Stephen C. Cowper \$ 20,637.47

David T. Walker

Fees	\$236,811.00
Costs	\$ <u>23,574.76</u>

Total for David T. Walker \$260,385.76

James B. Gottstein

Fees	\$231,637.00
Costs	\$ <u>22,482.36</u>

Total for James B. Gottstein \$254,119.36

Philip R. Volland

Fees	\$ 50,754.50
Costs	\$ <u>3,931.37</u>

Total for Philip R. Volland \$ 54,685.87

Appraisers

\$161,846.17

Mineral valuation

Paid to date	\$ 14,057.20
Estimated balance	\$ <u>15,942.80</u>

Total for mineral valuation \$ 30,000.00

Data processing

Paid to date	\$ 49,738.10
Not yet paid	\$ <u>4,545.00</u>

Total for data processing \$ 54,283.10

GRAND TOTAL

\$835,957.73

*/ This summary does not include: (1) costs and attorney fees incurred after December 31, 1988; (2) appraiser fees and data processing expenses incurred after January 31, 1989; and (3) the cost of a computer which the state purchased for the plaintiffs' and intervenors' use but which remains state property.

MEMORANDUM

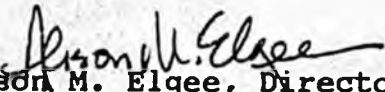
State of Alaska

TO: Representative Ron Larson, Co-Chair
House Finance Committee
Alaska State Legislature

DATE: April 13, 1989

FILE NO: ae74/wp50

TELEPHONE NO: 465-3568

FROM: 
Alison M. Elgee, Director
Office of Management and Budget
Division of Budget Review

SUBJECT: HB 154

Attached is additional information relating to the Kotzebue Hanger and the recent amendments to the judgments and claims supplemental.

The revised request of April 7 contained an error in the computation of interest in the judgments and claims supplemental. The correct number will be transmitted on April 14.

cc: Representative Steve Rieger

MEMORANDUM

State of Alaska

Department of Law

TO: Alison M. Elgee, Director
Office of Management and Budget
Division of Management and Budget

DATE: April 12, 1989

FILE NO:

TEL. NO: 465-3672

SUBJECT: Kotzebue Hangar
Supplemental Request

Richard I. Pegues
FROM: Richard I. Pegues, Director
Administrative Services Division
Department of Law

In response to your inquiry of April 10, this is to advise that Department of Law costs to conduct the Kotzebue Hangar litigation will total \$ 130,000. Additionally, \$ 24,000 is needed by the Department of Transportation for preparing their part of the state's evidence. The total estimated costs to complete the case are \$ 154,000. I am attaching a copy of a memorandum from then Attorney General Grace Berg Schaible to Robert Evans, Deputy Chief of Staff, which breaks out the department's cost estimates in some detail. Briefly, \$ 50,000 will be needed to pay expert witnesses; \$ 13,700 will be needed to take depositions; \$ 66,300 will be needed to the department's staff costs; and \$ 24,000 is required to reimburse the Department of Transportation and Public Facilities for its expenses in this matter.

Department of Law staff costs include the time of an assistant attorney general, secretarial assistance, copying, communications, and legal research.

These costs began on March 16, 1988 and are expected to end about May 30, 1989. The attorney assigned to this case occupies to a reimbursable services position, and all of the attorney's expenses are paid from the appropriate capital improvement project accounts, to which the attorney has been assigned. Consequently, there are no other accounts available to pay for these costs, and that is why a supplemental appropriation has been requested.

Please let me know if I can provide any additional information, or be of further assistance.

RIP:djm

MEMORANDUM

State of Alaska
Department of Law


TO: Robert A. Evans
Deputy Chief of Staff
Office of the Governor

DATE: January 23, 1989

FILE NO.:

TEL. NO.: 465-3600

SUBJECT: Kotzebue Hangar


FROM: Grace Berg Schaible
Attorney General

In response to your request of December 21, 1988, this confirms our estimate that costs for the Kotzebue Hangar litigation will be \$154,000. Of this amount, \$24,000 will be required for staff assistance from the Department of Transportation and Public Facilities. The remaining \$130,000 will be needed by the Department of Law. The costs break down as follows:

1. Department of Law Costs

a. Expert Witnesses

Merle Jantz	\$ 20,000
Raymond LaTona	<u>30,000</u>

\$ 50,000

b. Depositions

(About 15 depositions will be required at an average cost of \$750 each)

\$ 11,250

Deposition Travel

2,450

\$ 13,700

c. Attorney Time

Unreimbursed costs for the period
3/16/88 through 11/15/88

\$ 11,500

Accrued Costs, 11/16/88 through
12/15/88

8,400

Robert A. Evans
Deputy Chief of Staff
Office of the Governor

January 23, 1989
Page 2

Pretrial Activity, 12/16/88 through 3/31/89	\$ 26,400
Trial and post-trial activities, 4/1/89 through 5/30/89	<u>20,000</u>
	\$ 66,300
Estimated DOL costs	\$130,000
2. Estimated DOT/PF costs	<u>24,000</u>
TOTAL ESTIMATED COSTS	\$154,000

I apologize for the time that it has taken to respond to your request; however, the delay was caused by illness.

GBS/RIP/lg

MEMORANDUM

State of Alaska
Department of Law

TO: Alison M. Elgee, Director
Office of Management and Budget
Division of Budget Review

DATE: April 11, 1989

FILE NO:

TEL. NO: 465-3672

SUBJECT: Judgment Supplemental

Richard I. Pegues
FROM: Richard I. Pegues, Director
Administrative Services
Department of Law

The following information is being provided in response to your request of yesterday, regarding the four new judgments contained in the Department of Law's revised judgment supplemental request, which was dated March 22, 1989.

1. Owsichek v. State Guide Licensing and Central Board. Amount \$ 1,706.52. This is to pay the costs and fees in the Supreme Court, in the case that eventually overruled the use of exclusive guide areas. Trial court costs have not yet been awarded. The state prevailed at trial, but this decision was overturned. Plaintiff is seeking \$ 111,000 for trial costs; however, the state is vigorously opposing this claim. The state had previously been awarded \$ 10,000 for its costs and fees, until the decision was overturned.

Stanbaugh v. CFEC. Amount \$1,823.50. These are cost and fees awarded against the state when the CFEC administratively withheld transfer of a limited entry permit from one brother to another, where the brother holding the permit was facing commercial fishing violations. The court held that the CFEC could not withhold transfer of a permit under these circumstances. The legislature is currently considering legislation, HB 201, that addresses this issue.

Glena White v. API. Amount \$ 420.00. Individual privacy considerations prevent the department from commenting about this case, other than to state that a mixup in documents held by the court was eventually resolved by the department. Alaska Advocacy Inc., who represented the Plaintiff requested \$ 3,200, but this amount was reduced at the state's request.

Finkelstein v. State. Amount \$ 12,427.00. This was a dispute involving the outcome of the District 13 House of Representatives election. The amount is for attorney costs and fees. A more detailed explanation of this matter is attached. The department's revised request of March 22, contained an error in the computation in the interest for this claim by erroneously showing the interest due as \$ 4,269.96. The actual interest due is \$ 427.00. Therefore the department's request should be reduced by \$3,842.96, resulting in a judgement supplemental request of \$ 356,483.87. A corrected revised judgments listing is attached.

Allison M. Elgee

April 11, 1989
Page 2

Except for the Finkelstien claim, which is a negotiated amount, and except for State of Washington claims, which are tax court awards, all of the judgments are court-awarded amounts. Lastly, I have attached a memorandum to Representative Steve Rieger dated February 16, 1989, which describes the eleven judgements that were included in the department's initial supplemental request. Please let me know if I can provide any additional information.

RIP:djm

Attachments (3)

MEMORANDUM

State of Alaska
Department of Law

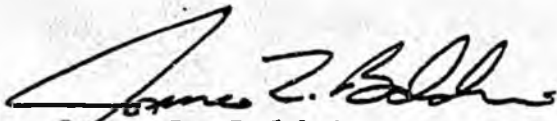
TO: Dick Pegues, Director
Div. of Administrative Services
Department of Law

DATE: April 11, 1989

FILE NO:

TEL. NO: 465-3600

SUBJECT: Settlement of attorney's
fees claim, Finkelstein
v. Stout



FROM: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

This memorandum will serve as supporting documentation for our settlement of a claim for attorney's fees filed by counsel representing David Finkelstein. The case, Finkelstein v. Stout, was an election contest relating to the 1988 general election to fill the seat representing district 13 in the House of Representatives. The official count made by the division of elections gave Finkelstein's opponent Bradley the highest vote total by 3 votes. However, Finkelstein appealed to the Alaska Supreme Court alleging that there was election misconduct which would have changed the result of the election. The court agreed with some of the points raised by Finkelstein and ordered a new election.

Finkelstein subsequently filed a motion for attorney's fees based on the public interest litigant theory of recovery of full attorney's fees. Counsel for Finkelstein alleged that they had incurred approximately \$30,000 in fees. From prior experience, I estimated that the court could give them at least half of what they requested. We have been unsuccessful in defeating motions of this type in other elections-related cases. One example that comes to mind is the reapportionment case, Carpenter v. Hammond / Kenai Penin. Boro. v. Hammond. I also determined that this office spent approximately \$9,000 in defending the election contest in the supreme court.

I negotiated with counsel for Finkelstein to arrive at a mutually acceptable amount to avoid the expense of further litigation and the devotion of more time by counsel and the court to ancillary issues. We agreed to pay \$12,000 plus interest at the statutory rate. The amount was set higher than our costs because Finkelstein employed two attorneys in his appeal. Our agreement is memorialized in writing. As provided in the settlement agreement, Finkelstein withdrew his motion for attorney's fees. Bradley failed to file a motion for costs or fees or request settlement. In any case, he was clearly not the prevailing party in the action.

I hope this memorandum will serve your purposes.

JLB/pjg

FEES AND COSTS AGREEMENT

For and in consideration of the payment of the sum of Twelve Thousand Dollars (\$12,000) by the Appellees Sandra Stout, Director of the Alaska Division of Elections, and Stephen A. McAlpine, Lieutenant Governor of Alaska to Appellant David Finkelstein, and other good and valuable consideration, the parties to this Agreement, for their heirs, executors, administrators, successors and assigns, hereby release each other and each other's employees, agents, attorneys, insurers, successors, assigns, affiliates and personal representatives from all fees and costs claims and demands of any kind or nature relating to the litigation entitled Finkelstein v. Stout, et al, Supreme Court Case No. S-3107. The settlement amount represents partial compensation for attorneys fees and costs incurred by Finkelstein in bringing this case.

The parties to this Agreement agree to execute, through counsel, any stipulations or other documents necessary to carry out the effect of this Agreement.

This Agreement in no way acknowledges fault or liability and is intended to represent a reasonable compromise of any claims made by Finkelstein.

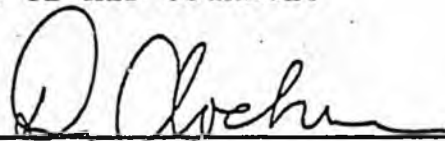
Should the money to fund this Agreement not be appropriated by the Alaska Legislature and approved by the Governor by July 1, 1989, this Agreement will be of no force and effect, and the parties are free to litigate the question of costs and fees. Upon the execution of this Agreement by both parties,

interest at the statutory rate shall begin to accrue, and any appropriation shall include interest from that date.

Finkelstein agrees, upon the execution of this Agreement, to withdraw his Motion for Costs and Fees now pending in the Supreme Court and not to re-file that motion while this Agreement is effective.

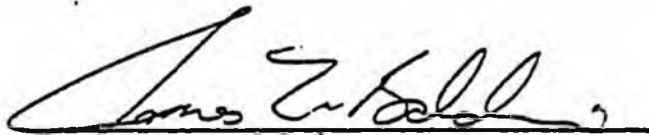
This Agreement is not contingent upon review or approval by Intervenor W.E. Brad Bradley or his counsel.

DATE: Feb 29, 1989



Don Clocksin
Attorney for David Finkelstein

DATE: 3/6/89



James L. Baldwin
Assistant Attorney General
On behalf of Stout and McAlpine

Department of Law
FY 89
Supplemental Judgments

4-11-89

<u>Judgment</u>	<u>Date of Judgment</u>	<u>Amount</u>	<u>Interest thru 6/30/89 Anticipated</u>	<u>Total</u>	<u>Cumulative Total</u>
1) AK Legal Svcs Reid v. State	05/25/88	1,000.00	33.54	1,033.54	1,033.54
2) K Clarkson (Perkins Coie) State v. Ak Public TV	08/12/88	514.10	5.70	519.80	1,553.34
3) R Wagstaff Anchorage Internation Airport	04/27/88	1,000.00	43.75	1,043.75	2,597.09
4) Gregory Cook	09/13/88	157.67	-0-	157.67	2,754.76
5) Trustees (4) Ak Trustees v. State	06/10/87 (Supreme) 12/24/87 (Superior)	16,931.79 42,055.98	3,708.77 6,787.45	69,433.99	72,188.75
6) Ashburn & Mason Cleary v. State	10/13/88	1144.26	87.11	1231.37	73,420.12
7) Ak. Legal Services State v. W.P. Bobby	01/23/87	8,708.91	2,258.14	10,967.05	84,387.11
8) Phillip Volland Cleary v. State	11/08/88	15,000.00	1,028.12	16,028.12	100,415.29
9) City of Kotzebue Kotzebue v. State	08/22/88	10,000.00	912.92	10,912.92	111,328.21
10) Kenai Peninsula Boro KPB v. State	07/12/88 (Supreme) 12/22/88 (Superior)	18,944.75 32,171.62	1,956.05 1,792.25	54,864.67	166,192.88
11) Kenneth Jacobus Crawford v. State	07/12/88 (Supreme) 12/22/88 (Superior)	6,290.15 18,013.73	649.56 1,033.53	25,956.97	192,149.85

Department of Law
 FY 89
Supplemental Judgments

<u>Judgment</u>	<u>Date of Judgment</u>	<u>Amount</u>	<u>Interest thru 6/30/89 Anticipated</u>	<u>Total</u>	<u>Cummulative Total</u>
12) Washington State v. ADF&G/Pub. Safety	11/28/88	86,662.00 61,335.00		147,957.00	340,106.85
13) K.D. Owsichek v. State Guide Board	10/21/88	1,589.25	117.27	1,706.52	341,813.37
14) Stephen Marks Stambaugh v. CFEC	02/07/89	1,750.00	73.50	1,823.50	343,636.87
15) Advocacy Svcs/AK White v. API	12/20/88	420.00	-0-	420.00	344,056.87
16) D. Clocksin Finkelstein v. State	03/01/89	12,000.00	427.00	12,427.00	356,483.87
TOTAL		<u>335,599.21</u>	<u>20,801.67</u>	<u>356,483.87</u>	

STATE OF ALASKA

DEPARTMENT OF LAW

ADMINISTRATIVE SERVICES DIVISION

STEVE COWPER, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3672

February 16, 1989

The Honorable Steve Rieger
Representative - District 8-B
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Rieger:

In response to a request from Rod Mourant of your staff, the following information is being provided concerning the Department of Law's request for a supplemental appropriation to pay court judgments against the state. The department's request is contained in Section 8 of HB 154.

Reid v. State. Amount \$1,033.54. This case involved settlement of a public assistance claim alleging improper disallowance of benefits. The amount is for attorney costs and fees.

State v. Alaska Public TV, Inc.. Amount \$519.80. This case involved a Department of Labor enforcement action. The amount pays attorney costs and fees.

Herrick's Aero Repair Services, et al v. State. Amount \$1,043.75. This case involved a claim by aircraft maintenance service firms, based at the Anchorage International Airport, alleging unequal treatment by the state in requiring liability insurance from the tenant service firms, while the state did not enforce these same requirements from itinerant services firms who provide similar service at the airport. The amount is for attorney costs and fees.

Gregory Cook, Alaska Fish and Wildlife Federation v. State. Amount \$157.67. This case was brought against the state and federal government as a result of their joint efforts to alleviate hunting pressure on nesting waterfowl in Western Alaska. The amount is the state's share of attorney costs and fees.

Trustees for Alaska v. State. Amount \$69,433.99. This case involved the challenge to the state's mineral leasing law's under Section 6(i) of the Alaska Statehood Act. A more complete explanation is attached.

Cleary v. State. ^{ASHBURN} ~~Early~~ & Mason. Amount \$1,231.37. This is an interim payment in this ongoing prisoners' rights litigation. This matter has been subject to Superior Court oversight since 1983. The amount is for attorney costs and fees.

State v. Wasilie Bobby. Amount \$10,967.05. This case involved the seizure of a snowmachine as a result of the taking of a moose out of season, which raised a variety of related fish and wildlife issues. The amount is for attorney costs and fees.

Cleary v. State. Phillip Volland. Amount \$16,028.12. This is another interim payment in this ongoing prisoners' rights matter. This case has been subject to Superior Court oversight since 1983. The amount is for attorney costs and fees.

City of Kotzebue v. State. Amount \$10,912.92. This is a court sanctioned settlement of a substantially larger claim that grew out of the Municipality of Anchorage revenue sharing problem. The amount is for attorney costs and fees.

Kenai Peninsula Borough v. State. Amount \$54,864.67. Crawford v. State. Amount \$25,956.97. These inter-related cases stem from challenges to the 1984 reapportionment plan. The amounts are for attorney costs and fees. A more detailed explanation of these cases is attached.

Washington State v. ADF&G/Public Safety. Amount \$147,957. This is a State of Washington sales tax claim for repair work done on State of Alaska vessels in the Duwamish shipyard. The amount is for unpaid taxes. A more detailed explanation of this matter is attached.

In addition to the judgment supplemental request, the department has also requested \$200,000 to pay for ongoing, increased costs in Weiss v. State. This request is shown in Section 9 of HB 154. An explanation of these costs is also attached.

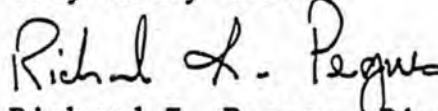
The Department of Law has been using the supplemental appropriation process to pay judgments against the state since the early Nineteen-Sixties. The amounts requested have varied from a low of \$5.5 Thousand to a high in excess \$1.0 Million.

Representative Rieger

February 16, 1989
Page 3

Departmental expenditure records dating back to FY 1972, indicate that on the average, about \$255,000 has been appropriated each year to pay judgments. The amounts paid have increased over the years, reflecting the growth in state government activities. For several years, the department received a small appropriation in its annual operating budget to pay miscellaneous claims, so that smaller, individual claimants would not have to wait until a supplemental appropriation was approved before they could be paid. Judgments up to \$3,000 were usually handled in this manner. The annual operating appropriation had reached \$17,400 in FY 1985, after which it was abandoned by the legislature, as a cost savings measure. Please let me know if I can be of any further assistance.

Very Truly Yours,



Richard I. Pegues, Director
Administrative Services Division

Attachments (4)

cc: Alison Elgee, Director, Division of Budget Review (w/
attachments)
Jay Hogan, House Finance Committee (w/ attachments)
Tom Sutton, Legislative Finance Division (w/ attachments)

RIP:djm

MEMORANDUM

State of Alaska

DEPARTMENT OF LAW

TO: Grace Berg Schaible
Attorney General

DATE: June 3, 1988

FILE NO:

TELEPHONE NO: 276-3550

THRU:

SUBJECT: Attorney's Fees
in Trustees for
Alaska v. State
of Alaska

FROM:

MPW
Mark P. Worcester
Assistant Attorney General
Oil, Gas and Mining-Anchorage

Attached to this memorandum is the Department of Law form by which requests for appropriations to pay judgments against the state are processed. Pursuant to the instructions in your October 26, 1986 memorandum concerning the procedures for processing requests for supplemental appropriations for payment of judgments against the state, I have prepared the following brief explanation of the circumstances resulting in the judgment.

On November 29, 1983 Trustees for Alaska et al. filed suit against the State of Alaska seeking a declaration that the Alaska statutes governing the acquisition and use of rights in locatable minerals on state lands violate the "lease" condition of section 6(i) of the Alaska Statehood Act. Injunctive relief was also sought. The administration defended the statutory mining system created by the Alaska Legislature. Those efforts at defending the existing state statutes were successful in the Superior Court. Summary judgment was obtained from Judge Serdahely against Trustees for Alaska on June 14, 1985. However, Trustees for Alaska appealed, and on May 1, 1987 the Alaska Supreme Court reversed the State Superior Court decision. Thereafter, the Alaska Supreme Court granted full attorney's fees to the appellants on the ground that they were "public interest" litigants. Upon remand, the superior court issued a final judgment and awarded full attorney's fees and costs for attorneys fees and costs incurred by Trustees for Alaska in the superior court proceedings.

The State of Alaska petitioned the United States Supreme Court to review the decision by the Alaska Supreme Court. The United States Supreme Court did not act until May 31, 1988, at which time it denied the petition for certiorari. There is no further recourse for judicial review of the determinations made, and the attorney's fee and cost awards entered by the Alaska Superior and Supreme Courts are now final.

MPW:so
Enclosure

MEMORANDUM


State of Alaska

Department of Law

TO: Dick Pegues, Director
Div. of Administrative Services
Dept. of Law

DATE: February 14, 1989
FILE NO: 223-84-0175 & 223-86-0099
TEL NO: 465-3600
SUBJECT: Overview of reapportionment cases

FROM:


Marjorie L. Odland
Assistant Attorney General
Governmental Affairs-Juneau

As requested, here is an overview of the Alaska Supreme Court's and the superior court's actions with respect to awards of costs and attorney's fees to Kenai Peninsula Borough in the reapportionment cases, Kenai Peninsula Borough v. State of Alaska, Supreme Court No. S-1207, and Carpenter v. Hammond / Kenai Peninsula Borough, et al. v. State of Alaska, Superior Court No. 3AN-81-5839 CIV.

On October 2, 1987, the Alaska Supreme Court reversed in part and affirmed in part the superior court's decision in Kenai Peninsula Borough v. State of Alaska, in which the lower court had upheld the validity of the 1984 state legislative reapportionment plan that was promulgated in an attempt to comply with the supreme court's decision in Carpenter v. Hammond, 667 P.2d 1204 (Alaska 1983). The supreme court viewed the litigation as public interest litigation and ruled that the appellants (Kenai Peninsula Borough and Jim Crawford) were entitled to receive reasonable costs and attorney's fees for services on appeal.

Based on the above, Kenai filed for costs and attorney's fees at both the supreme court and superior court levels. The state filed oppositions to both court filings.

On June 27, 1988, the superior court awarded Kenai Peninsula Borough a total of \$20,000 and awarded the other appellant, Jim Crawford, a total of \$9,500. Jim Crawford filed a motion for reconsideration of the award (claiming it was too low).

On July 12, 1988, the supreme court awarded Kenai Peninsula Borough a total of \$16,287 in attorney's fees and \$2,675.75 in costs. The state filed a motion for reconsideration, claiming the award was too high and unjustified based, in part, upon the superior court's "low" award, and because appellants had won only one point on appeal. (The state had won the other two.) On September 2, 1988, the supreme court denied the state's motion for reconsideration and reaffirmed the original awards.

Dick Pegues, Director
Law - Div. of Admin. Services
223-84-0175 & 223-86-0099

February 14, 1989
Page #2

On August 23, 1988, the superior court granted Jim Crawford's motion for reconsideration of the award of attorney's fees at the trial court level. The state filed a response to the motion for reconsideration on September 13, 1988, opposing any additional costs or attorney's fees be awarded and requesting it to affirm its original order of June 27, 1988.

On December 22, 1988, the superior court issued an order that increased both of the appellants' fee awards. With taxation of costs added to the final judgment on January 13, 1989, the awards at the superior court level totalled: \$32,171.62 for Kenai Peninsula Borough and \$18,013.73 for Jim Crawford.

Hope this is what you need. Give me a call if you need further explanation or information.

MLO/pjg

MEMORANDUM

State of Alaska
Department of Law

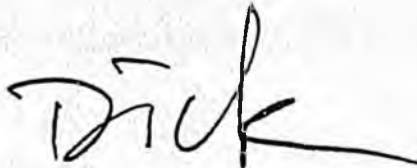
TO: Richard I. Pegues, Director
Administrative Services Division
Department of Law

DATE: February 15, 1989

FILE NO.: 223-87-0083

TEL. NO.: 465-3600

SUBJECT: Duwamish Shipyard Tax
Assessments



FROM: Richard D. Monkman
Assistant Attorney General

You have asked for the background on the judgments against the Departments of Fish & Game and Public Safety in this matter. These are assessments of sales tax by the State of Washington on repair services performed on State of Alaska vessels at a Washington shipyard. The general rule is that sales of goods destined for Alaska are exempt from Washington sales taxes. Similarly, repair work on property (in this case, vessels) is generally exempt from Washington sales tax, by statute and regulation.

However, the Washington Department of Revenue auditors take the position that the general exemption for repair work, when read very narrowly, only applies when the repaired property is either delivered directly to Alaska by the person performing the repairs, or is delivered in Washington to a shipper for direct shipment to Alaska.

In this case, our agencies took their vessels down to Washington, and picked them up again at the shipyard after the repairs were performed. Obviously, it is not practical to ship a vessel up to Alaska by common carrier. The Washington Department of Revenue discovered that the vessels had been picked up at the shipyard during a routine audit of the shipyard's accounts, and assessed sales taxes against the two agencies and the University of Alaska (for repair work done at the same shipyard on the R/S ALPHA HELIX).

We appealed the assessment through the administrative process in Washington, but lost. It is our opinion that further appeal of the decision will not be productive -- the chances of success on appeal are very slim. Appeal will only increase the amount of interest due on the assessment. The Washington Department of Revenue has given us until June 30, 1989 to pay the tax assessments, and the figures I gave you earlier calculate the interest to that date.

RDM:jf

MEMORANDUM

State of Alaska
Department of Law.

TO: Richard I. Pegues, Director
Administrative Services Division
Department of Law

DATE: February 14, 1989

FILE NO.:

TEL. NO.: 465-3600

SUBJECT: FY 1989 Supplemental
Appropriation Request
Weiss v. State

GTK

FROM: G. Thomas Koester
Assistant Attorney General
Department of Law

This is to summarize the reasons why a supplemental appropriation, in the amount of \$200,000, is needed to pay plaintiffs' and intervenors' costs in Weiss v. State. As you are aware, the state is under court order to pay these costs.

The existing annual budget for this case is \$240,000. It was originally anticipated that all of the parties to this lawsuit would accept the methodology used by the state in determining the value to be assigned to the state's mental health trust lands, and that the annual appropriation would therefore be sufficient to pay plaintiffs' and intervenors' costs. This has proved not to be the case.

Numerous disputes, revolving around the values to be assigned, have arisen between the parties to this lawsuit, and these disputes are still unresolved. Moreover, the Interim Mental Health Trust Lands Commission has yet to determine the extent to which the plaintiffs and intervenors are to be involved in the valuation process. As a result, the costs for plaintiffs' and intervenors' counsel and expert witnesses are rapidly escalating. For instance, the plaintiffs' have hired expert witnesses from as far away as the University of London.

After examining the level of plaintiffs' and intervenors' legal costs through October, it was determined that an additional \$200,000 would be needed to pay anticipated costs through June 30, 1989. This examination also included the anticipated costs for land appraisers, and the minerals, oil and gas, and timber expert witnesses employed by the plaintiffs. And, as you know, administrative services division staff have carefully reviewed the assumptions used in arriving at the \$200,000 request.

Lastly, and even under the current circumstances, the department has regularly and vigorously objected to portions of the amounts requested. The court, having already found the state to have been in violation of its mental health lands trust responsibilities, has approved nearly all of the requested costs.

GTK:djm

MEMORANDUM

State of Alaska

Department of Law

TO: Alison M. Elgee, Director
Office of Management and Budget
Division of Budget Review

DATE: March 22, 1989

FILE NO.:

TEL. NO.: 465-3600

SUBJECT: FY 89 Judgment
Supplemental
Revision No.1

FROM: Douglas B. Baily
Attorney General



This is to revise the Department of Law's request of January 27, 1989, for a supplemental appropriation to pay judgments awarded against the state, to include four new judgments. The total amount of the new awards is \$20,219.98, including interest. It is noted that Section 5 of CSHB 154 (Fin), which contains the judgment supplemental request, was amended by the House Finance Committee to delete the \$124,907 to pay the State of Washington tax claims against the Department's of Fish and Game and Public Safety. In this regard, Governor Cowper has recently contacted Governor Booth Gardner requesting that Washington's tax ruling against Alaska be reversed. A revised schedule of pending judgments is attached for your review.

DBB:RIP:djm

Attachments

Department of Law
 FY 89
Supplemental Judgments

<u>Judgment</u>	<u>Date of Judgment</u>	<u>Amount</u>	<u>Interest thru 6/30/89 Anticipated</u>	<u>Total</u>	<u>Cummulative Total</u>
12) Washington State v. ADF&G/Pub. Safety	11/28/88	86,662.00 61,335.00		147,957.00	340,106.85
13) K.D. Owsichek v. State Guide Board	10/21/88	1,589.25	117.27	1,706.52	341,813.37
14) Stephen Marks Stambaugh v. CFEC	02/07/89	1,750.00	73.50	1,823.50	343,636.87
15) Advocacy Svcs/AK White v. API	12/20/88	420.00	-0-	420.00	344,056.87
16) D. Clocksin Finkelstein v. State	03/01/89	12,000.00	4,269.96	16,269.96	360,326.83
TOTAL		<u>335,599.21</u>	<u>24,727.62</u>	<u>360,326.83</u>	

Department of Law
FY 89
Supplemental Judgments

<u>Judgment</u>	<u>Date of Judgment</u>	<u>Amount</u>	<u>Interest thru 6/30/89 Anticipated</u>	<u>Total</u>	<u>Cummulative Total</u>
1) AK Legal Svcs Reid v. State	05/25/88	1,000.00	33.54	1,033.54	1,033.54
2) K Clarkson (Perkins Coie) State v. Ak Public TV	08/12/88	514.10	5.70	519.80	1,553.34
3) R Wagstaff Anchorage Internation Airport	04/27/88	1,000.00	43.75	1,043.75	2,597.09
4) Gregory Cook	09/13/88	157.67	-0-	157.67	2,754.76
5) Trustees (4) Ak Trustees v. State	06/10/87 (Supreme) 12/24/87 (Superior)	16,931.79 42,055.98	3,708.77 6,787.45	69,433.99	72,188.75
6) Ashburn & Mason Cleary v. State	10/13/88	1144.26	87.11	1231.37	73,420.12
7) Ak. Legal Services State v. W.P. Bobby	01/23/87	8,708.91	2,258.14	10,967.05	84,387.11
8) Phillip Volland Cleary v. State	11/08/88	15,000.00	1,028.12	16,028.12	100,415.29
9) City of Kotzebue Kotzebue v. State	08/22/88	10,000.00	912.92	10,912.92	111,328.21
10) Kenai Peninsula Boro KPB v. State	07/12/88 (Supreme) 12/22/88 (Superior)	18,944.75 32,171.62	1,956.05 1,792.25	54,864.67	166,192.88
11) Kenneth Jacobus Crawford v. State	07/12/88 (Supreme) 12/22/88 (Superior)	6,290.15 18,013.73	649.56 1,033.53	25,956.97	192,149.85

MEMORANDUM

State of Alaska

Department of Law

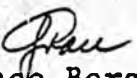
TO: Robert A. Evans
Deputy Chief of Staff
Office of the Governor

DATE: January 23, 1989

FILE NO.:

TEL. NO.: 465-3600

SUBJECT: Kotzebue Hangar


FROM: Grace Berg Schaible
Attorney General

In response to your request of December 21, 1988, this confirms our estimate that costs for the Kotzebue Hangar litigation will be \$154,000. Of this amount, \$24,000 will be required for staff assistance from the Department of Transportation and Public Facilities. The remaining \$130,000 will be needed by the Department of Law. The costs break down as follows:

1. Department of Law Costs

a. Expert Witnesses

Merle Jantz	\$ 20,000
Raymond LaTona	<u>30,000</u>

\$ 50,000

b. Depositions

(About 15 depositions will be required at an average cost of \$750 each)

\$ 11,250

Deposition Travel 2,450

\$ 13,700

c. Attorney Time

Unreimbursed costs for the period
3/16/88 through 11/15/88 \$ 11,500

Accrued Costs, 11/16/88 through
12/15/88 8,400

Robert A. Evans
Deputy Chief of Staff
Office of the Governor

January 23, 1989
Page 2

Pretrial Activity, 12/16/88 through 3/31/89	\$ 26,400
Trial and post-trial activities, 4/1/89 through 5/30/89	<u>20,000</u>
	\$ 66,300
Estimated DOL costs	\$130,000
2. Estimated DOT/PF costs	<u>24,000</u>
TOTAL ESTIMATED COSTS	\$154,000

I apologize for the time that it has taken to respond to your request; however, the delay was caused by illness.

GBS/RIP/lg

M E M O R A N D U M

TO: Garrey Peska
Chief of Staff
Office of the Governor

DATE: August 22, 1988

RE: Funding Request
Kotzebue Army
Aviation Operating
Facility

FROM: Grace Berg Schaible *GB*
Attorney General
Department of Law

Mark Hickey, Commissioner *MH*
Department of Transportation
and Public Facilities

Major General John W. Schaeffer *JS*
Adjutant General
Department of Military and
Veterans Affairs

A. Summary of problem

The roof of the Army Aviation Operating Facility in Kotzebue leaks badly. We are involved in litigation over this problem (both pursuing claims on behalf of the state and defending claims against the state), but there are no funds available to pay the costs of this litigation. The litigation was filed by Bonner & Hegdal JV (a construction contractor) against DOT&PF, as contracting agency, Charles Bettisworth & Co., designer, and Inryco, Inc., supplier of a prefabricated building system. The lawsuit is pending in the Fourth Judicial District (Fairbanks). Project funds were overexpended before the lawsuit was initiated.

The construction contract was awarded in 1982 and was to have been completed in 1983. However, due to myriad problems including but not limited to mechanical problems in the heating system and leaks throughout the prefabricated building, final acceptance never occurred. In 1986 the contractor, Bonner & Hegdal filed a claim against the state claiming that design defects had caused extra work for which the contractor was entitled to reimbursement, and that the roof leaks were attributable to a design defect. In a separate case between Bonner & Hegdal and its construction subcontractor, Griffard, and in which neither the state nor Bettisworth were joined as parties, the court (Judge Hodges) ruled that defective workmanship was not the cause of the problems and Griffard was awarded damages. Judge Hodges'

findings were that inadequate design, inadequate shop drawings and/or the work of others for whom Bonner & Hegdal was responsible created the problems.

After an administrative decision by DOT&PF denying its claim, Bonner & Hegdal commenced a lawsuit, naming as defendants DOT&PF, Bettisworth & Co., and Inryco. Bonner & Hegdal seeks damages in excess of \$600,000. The building continues to leak badly and is suffering internal damages due to the leaks. After receiving the complaint in October 1987, the state counterclaimed against Bonner & Hegdal for damages and cross-claimed against Bettisworth for indemnity, and against Bettisworth and Inryco for damages due to the continuing problems with the facility. Originally close to \$3.5 million was budgeted for design fees and construction, and these have already been expended for those purposes.

B. Decision required

Allocation of contingency funds and/or request a supplemental capital appropriation for the Department of Military and Veterans Affairs to cover litigation costs, and to reimburse DOT&PF for current overexpenditures.

C. Key agencies, interested groups, individuals

The Attorney General's Office is currently handling the litigation for the state. The Department of Military and Veterans Affairs is the owner of this facility. DOT&PF coordinated the design and construction activities. The facility was designed by Charles Bettisworth & Co. and constructed by Bonner & Hegdal JV. Bonner & Hegdal contracted Inryco, Inc. to supply a prefabricated building system and shop drawings. Bettisworth & Co. subcontracted portions of design work and part of the responsibility for construction inspection and approval of shop drawings to R & M Engineering and Whitmer & Associates.

D. Options

There are really no options to the defense of this claim, unless the state wishes to allow entry of a default judgment in the amount sought by Bonner & Hegdal (\$600,000). In that case the state would also have to appropriate funds to repair the facility, or allow it to become destroyed by leaks. A cheap fix of the facility might be possible for around \$100,000. However,

for the facility to be put in the same condition it would have had, had there been no design or construction errors, major reconstruction in the vicinity of \$1,000,000 could be necessary.

E. Option recommended

Secure funding necessary to pursue litigation either to trial or a settlement favorable to the state providing for repair of the facility.

F. Identification of additional non-budgeted resources needed to implement commissioners' recommendation

The state has recently moved for partial summary judgment as to Bonner & Hegdal's claims against the state based on the contractor's failure to comply with the notice of claims provision of the contract. It is unlikely, however, that a ruling will be made before additional trial preparation is necessary. So many different problems and causes are alleged that it will be necessary to obtain expert witnesses to determine and testify about the causes of the problems with the facility. Expert fees could approach \$50,000. Attorney's fees and costs are predicted at about \$80,000, although settlement or summary judgment could reduce that amount. DOT&PF personnel will also have to devote a substantial amount of time to this problem. Almost \$10,000 has already been expended for an outside consultant to organize DOT&PF's records for trial, and to suggest approaches to the litigation. DOT&PF's budget for this project is already overexpended by some \$70,000 due to the administrative proceedings and continuing problems with the facility. Therefore, at a minimum, \$130,000 will be needed to present an adequate case and \$70,000 will be needed to cover the existing overexpenditure, resulting in a need for a supplemental appropriation of \$200,000. This estimate is probably on the high side, however, it would be better to have sufficient funds to cover contingencies. Jury trial is scheduled for March 1989.

G. Whether a press release should be drafted and distributed to the media announcing the decision

No.

LLW/lg

cc: Alison M. Elgee, Director
Division of Budget Review
Office of Management and Budget