

LEGISLATIVE FINANCE-HOUSE / SENATE FINANCE COMM. FILES 8879

HB 404 cont., HB 405 516

HB

41041

SENATE FINANCE COMMITTEE REPORT

DATE: 4/10/90

FURTHER:

DATE TURNED INTO OFFICE: 5/2/90

The Finance Committee considered

HB 404

"An Act relating to the unemployment insurance benefit schedule; and providing for an effective date."

and recommended:

- replace with _____ CS _____
 or adopt _____ CS _____
 attached amendment(s)
 _____ letter of intent adopted

- same title
 new title
 technical title change
(HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

fiscal note(s) _____ Dept/Date: _____

fiscal note(s) Doherty 10/23/89 Dept/Date: _____
272.5 GF / 117.0 Other

zero fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Jim Duncan
Paul Friske
Fred J. Zharoff
Heaven
Phil (L) [Signature]

1. _____
Co-Chairs: Signatures and Recommendations

039

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 404
PUBLISH DATE: HOUSE 1/8/90

No. 1

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: All
 Title: "An Act relating to Unemployment Insurance" BRU: All
 Sponsor: Rules Committee Components: All
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	390.5	490.4	514.4	549.0	584.3	620.2
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	390.5	490.4	514.4	549.0	584.3	620.2

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	273.5	343.3	360.1	384.3	409.0	434.2
FEDERAL FUNDS						
OTHER	117.0	147.1	154.3	164.7	175.3	186.0
TOTAL	390.5	490.4	514.4	549.0	584.3	620.2

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Judy Knight, Deputy Director Phone: 465-2712
 Division: Employment Security Division Date: 10/23/89

Approved by Commissioner: Jim Sampson Date: 10/23/89
 Agency: Department of Labor

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

Adopted

**Fiscal Note Analysis
for
"An Act relating to Unemployment Insurance"**

This bill provides for a revised schedule that would increase the amount of weekly unemployment insurance benefits paid to unemployed workers.

There would be a cost to the state for benefits paid to ex-state employees. The costs are based on forecasted benefits to be paid to ex-state workers. The fiscal note for FY 91 reflects the change for three-fourths of the year based on an effective date of October 1, 1990.

Approximately seventy percent of the state operating budget is general funds. Therefore, seventy percent of the increased cost of the benefits would come from the general fund. The remaining thirty percent would come from other funds such as federal funds, interagency receipts, and other funds.

Funds should be appropriated to the Department of Administration for deposit into the account that is used to reimburse the unemployment insurance system for the increased benefit costs.

DEPARTMENT OF LABOR

Proposed Legislation to Increase
Unemployment Insurance Benefits

Section-by-Section Analysis

Section 1:

This amendment to AS 23.20.350 provides for an increase in unemployment insurance weekly benefits. Nationally, an unemployment insurance benefit system is considered inadequate if it does not provide at least a 50 percent wage replacement for two-thirds of the claimants. In FY 89, Alaska's benefit schedule provided a 50 percent replacement to only 59.5 percent of the claimants. The proposed amendment, which would raise minimum weekly benefits to \$44 and maximum weekly benefits to \$212, would adjust the benefit schedule to meet the national standard.

Section 2:

This section provides for an effective date.

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 404

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the unemployment insurance bene-
7 fit schedule; and providing for an effective date."

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

9 * Section 1. AS 23.20.350(d) is repealed and reenacted to read:

10 (d) An individual who is eligible under (a) of this section is
11 entitled to receive the weekly benefit amount set out in column (B) of
12 the table in this subsection that is opposite the amount set out in
13 column (A) of the individual's base period wages determined under (c)
14 of this section:

15	(A)		(B)
16	Base Period Wages		Weekly Benefit Amount
17	At least	But less than	
18	0	1,000	\$ 0
19	1,000	1,250	44
20	1,250	1,500	46
21	1,500	1,750	48
22	1,750	2,000	50
23	2,000	2,250	52
24	2,250	2,500	54
25	2,500	2,750	56
26	2,750	3,000	58
27	3,000	3,250	60
28	3,250	3,500	62
29	3,500	3,750	64

1	3,750	4,000	66
2	4,000	4,250	68
3	4,250	4,500	70
4	4,500	4,750	72
5	4,750	5,000	74
6	5,000	5,250	76
7	5,250	5,500	78
8	5,500	5,750	80
9	5,750	6,000	82
10	6,000	6,250	84
11	6,250	6,500	86
12	6,500	6,750	88
13	6,750	7,000	90
14	7,000	7,250	92
15	7,250	7,500	94
16	7,500	7,750	96
17	7,750	8,000	98
18	8,000	8,250	100
19	8,250	8,500	102
20	8,500	8,750	104
21	8,750	9,000	106
22	9,000	9,250	108
23	9,250	9,500	110
24	9,500	9,750	112
25	9,750	10,000	114
26	10,000	10,250	116
27	10,250	10,500	118
28	10,500	10,750	120
29	10,750	11,000	122

1	11,000	11,250	124
2	11,250	11,500	126
3	11,500	11,750	128
4	11,750	12,000	130
5	12,000	12,250	132
6	12,250	12,500	134
7	12,500	12,750	136
8	12,750	13,000	138
9	13,000	13,250	140
10	13,250	13,500	142
11	13,500	13,750	144
12	13,750	14,000	146
13	14,000	14,250	148
14	14,250	14,500	150
15	14,500	14,750	152
16	14,750	15,000	154
17	15,000	15,250	156
18	15,250	15,500	158
19	15,500	15,750	160
20	15,750	16,000	162
21	16,000	16,250	164
22	16,250	16,500	166
23	16,500	16,750	168
24	16,750	17,000	170
25	17,000	17,250	172
26	17,250	17,500	174
27	17,500	17,750	176
28	17,750	18,000	178
29	18,000	18,250	180

1	18,250	18,500	182
2	18,500	18,750	184
3	18,750	19,000	186
4	19,000	19,250	188
5	19,250	19,500	190
6	19,500	19,750	192
7	19,750	20,000	194
8	20,000	20,250	196
9	20,250	20,500	198
10	20,500	20,750	200
11	20,750	21,000	202
12	21,000	21,250	204
13	21,250	21,500	206
14	21,500	21,750	208
15	21,750	22,000	210
16	22,000	22,250	212
17	22,250		212

18 * Sec. 2. This Act takes effect on October 1, 1990, and applies to an
19 initial claim filed for a benefit year beginning after September 30, 1990.

Unemployment Insurance at a Glance

To be eligible

- * A person must have been paid at least \$1000
- * These wages must have been paid in at least 2 calendar quarters.
- * At least \$100 must be paid outside the quarter of highest wages.
- * Must be physically able to work
- * Available for work
- * Registered for employment

Benefits

- * Currently, weekly UI benefits range from \$38.00 with a high of \$188.00 depending on the amount of wages
- * Eligible for 16-26 weeks depending on length of employment

*Judy Knight
Dept. of Labor
4/28/90 jmn*

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Maximum Weekly UI Benefits, Selected States

State	Minimum WBA	Maximum WBA
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PACIFIC NORTHWEST:

California	\$40	\$190*
Alaska	38	188
Idaho	44	188
Washington	57	209
Oregon	53	229

HIGHEST STATES:

Pennsylvania	35	266
District of Columbia	13	283

LOWEST STATES:

Indiana	40	96
Nebraska	20	134

***Increases to \$210 in 1991, \$230 in 1992**

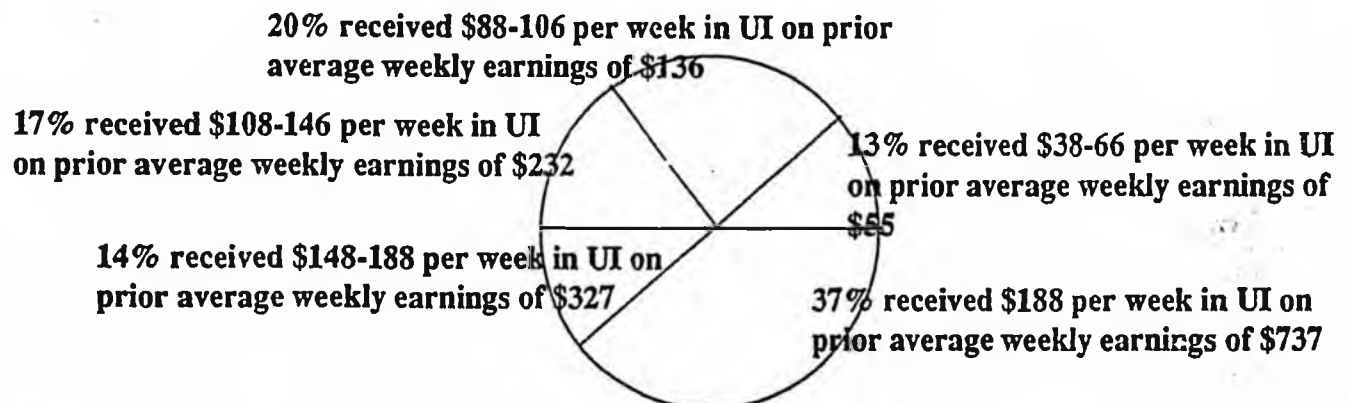
Where the money goes

UI payments reach almost every community in Alaska from Barrow to Ketchikan. The table below gives a regional perspective.

UI Benefits Paid within Alaska by Area, 1988

Anchorage / Mat-Su.....	\$37,065,299
Gulf Coast.....	10,509,401
Interior.....	15,183,125
Northern.....	2,439,763
Southeast.....	9,109,344
Southwest.....	2,540,267
Total Benefits Paid	
In Alaska in 1988...\$76,847,199	

This chart categorizes the the amount of benefits based on earnings.



Number of UI claimants; and UI Benefits Paid within Alaska by Area, and outside Alaska, Calendar Year 1989

	<u>Claimants</u>	<u>Payments</u>
Aleutian Islands Census Area	76	\$95,745
Anchorage Borough	11,247	20,788,574
Bethel Census Area	517	840,819
Bristol Bay Borough	46	78,916
Dillingham Census Area	221	362,742
Fairbanks North Star Borough	5,264	9,620,322
Haines Borough	193	327,995
Juneau Borough	1,594	2,858,590
Kenai Peninsula Borough	3,837	6,563,086
Ketchikan Gateway Borough	1,223	1,876,373
Kobuk Census Area	406	763,660
Kodiak Island Borough	894	1,393,057
Matanuska-Susitna Borough	3,570	7,056,198
Nome Census Area	574	1,080,072
North Slope Borough	233	491,801
Prince of Wales-Outer Ketchikan C.A.	746	1,368,925
Sitka Borough	541	863,098
Skagway-Yakutat-Angoon Census Area	547	900,285
Southeast Fairbanks Census Area	427	843,503
Valdez-Cordova Census Area	769	1,227,213
Wade Hampton Census Area	264	453,622
Wrangell-Petersburg Census Area	767	1,401,281
Yukon-Koyukuk Census Area	774	1,446,542
Total In-State	34,730	62,702,419
Out-of-State	10,128	19,120,952
Total	44,858	\$81,823,371

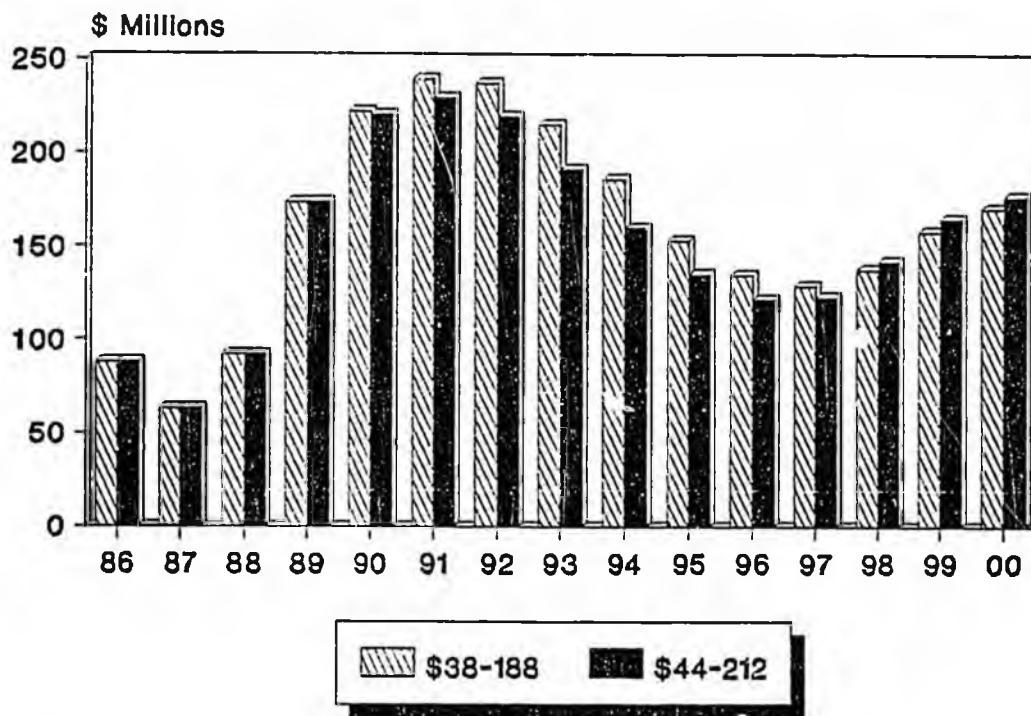
Amount of UI Benefit Payments by Census Area, 1985-1988

Census Areas and Subareas	1985 Total	1986 Total	1987 Total	1988 Total	Four Year Total
ALEUTIAN ISLANDS CA	\$188,249	312,908	305,427	286,631	1,093,215
ANCHORAGE BOROUGH	38,085,718	49,328,123	39,876,035	28,816,040	155,903,914
BETHEL CA	1,772,090	1,758,390	1,397,121	1,003,968	5,931,569
BRISTOL BAY BOROUGH	138,991	139,873	156,308	153,593	588,775
DILLINGHAM CA	552,863	662,028	646,392	447,749	2,309,042
FAIRBANKS NORTH STAR BOR.	17,119,979	22,634,341	17,283,988	12,428,408	69,446,714
HAINES BOROUGH	552,607	600,271	439,658	312,948	1,905,482
JUNEAU BOROUGH	4,551,809	5,902,455	4,049,082	2,754,550	17,257,898
KENAI PENNINSULA BOROUGH	8,995,851	14,083,740	10,923,365	8,007,491	42,010,387
KETCHIKAN GATEWAY BOROUGH	2,870,598	3,224,334	2,231,368	1,662,535	9,988,833
KOBUK CA	1,122,230	1,408,402	1,103,933	882,906	4,517,471
KODIAK ISLAND BOROUGH	2,065,156	1,717,931	1,157,092	998,352	5,938,531
MATANUSKA-SUSITNA BOROUGH	11,462,190	14,332,553	11,291,922	8,249,259	45,335,924
NOME CA	1,445,223	1,684,877	1,458,209	1,086,688	5,674,995
NORTH SLOPE BOROUGH	1,145,355	870,852	537,538	470,171	3,023,914
PRINCE OF WALES-OUTER KETCH.	1,524,987	1,735,893	1,545,602	1,252,326	6,058,808
SITKA BOROUGH	1,608,353	2,050,324	1,526,976	935,318	6,118,971
SKAGWAY-YAKUTAT-ANGOON CA	1,142,012	1,181,664	1,049,472	1,000,969	4,374,117
SOUTHEAST FAIRBANKS CA	1,301,719	1,700,595	1,309,799	1,066,402	5,378,515
VALDEZ-CORDOVA CA	1,776,382	2,042,788	1,688,151	1,503,558	7,010,879
WADE HAMPTON CA	741,681	781,280	659,487	648,326	2,830,774
WRANGELL-PETERSBURG CA	1,797,515	1,899,664	1,789,619	1,190,700	6,877,498
YUKON-KOYUKUK CA	2,272,033	2,349,612	2,143,570	1,688,317	8,453,532
AREA UNKNOWN	6,059,855	4,924,796	2,076,159	1,780,202	14,841,012
IN-STATE TOTALS	110,289,444	137,542,796	106,426,209	78,627,401	432,885,850
INTERSTATE TOTALS	29,505,972	34,504,509	32,761,728	22,841,870	119,614,077
TOTALS ALL AREAS	\$139,795,416	172,047,305	139,187,935	101,469,271	552,499,927

Effects of Proposed Benefit Increase on the UI Trust Fund

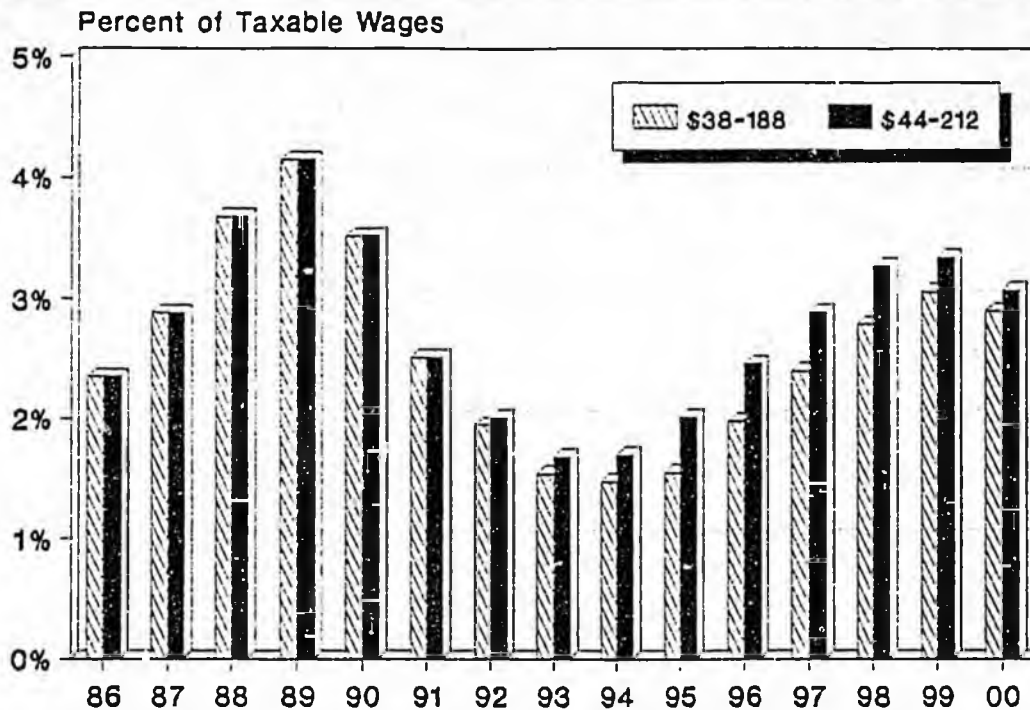
The following graph is a projection of the UI trust fund with and without the change in the schedule. Notice that the fund balance is lower with the change in the near-term, but by the end of the decade the fund balance is actually higher than it would be without the changes.

Year-end Balances Current and Proposed Benefit Schedules



The increase in the benefit schedule proposed in House Bill 404 will have only a small immediate impact on the trust fund, reducing the balance by about \$10-13 million over the next five years. It will have no impact over the long run, however, as Alaska's benefit financing system is self-adjusting and will always seek a fund balance at about 3% of Alaska payroll. At the end of 1989, Alaska's UI trust fund stood at a healthy \$173 million. Oil spill employment had a significant effect in replenishing the trust fund so quickly after the 1986 recession. However, the fund balance will continue its normal seasonal decline until its yearly increase in the Spring.

Average Employer Tax Rates Current and Proposed Benefit Schedules



Changes in Average Employer Tax Rates Due to Proposed Increase in Benefit Schedule

Year	Current Schedule \$38-188	Proposed Schedule \$44-212	Increase in Tax Rates
1991	2.50%	2.50%	0.00%
1992	1.94%	2.00%	0.06%
1993	1.53%	1.67%	0.14%
1994	1.47%	1.69%	0.22%
1995	1.54%	2.01%	0.47%
1996	1.97%	2.45%	0.48%
1997	2.39%	2.88%	0.49%
1998	2.78%	3.26%	0.48%
1999	3.05%	3.33%	0.28%
2000	2.89%	3.06%	0.17%
Avg. 1991-2000	2.21%	2.49%	0.28%

HB

405

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 7, 1990

FURTHER REFERRALS:

Date of Committee Action: 2-22-90

The FINANCE Committee considered:

HB 405

HOUSE BILL NO. 405 PUBLIC ACCESS TO EDP INFORMATION

"An Act relating to public access to the information of the state."

RECOMMENDATIONS:

- be replaced with CS HB 405 (FIN) the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- (3) fiscal impact DF+9, DOE, DVR
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

<u>John Gilmer</u> ULMER	<u>Laura Hoffman</u> Hoffman	+		
<u>Ronald J. Larson</u> (ON A SCALE OF 1-10) 6 Larson	<u>Ramona Barnes</u> Barnes	✓		
<u>Ch Swackhammer</u> SWACKHAMMER	<u>ROD E. Phillips</u> Phillips	✓		
<u>Ray Brown</u> Brown	<u>Dick Shultz</u> Shultz	✓		
<u>Walter Koponec</u> Koponec	<u>John Ringer</u> RINGER	✓		
_____	<u>Jay Wallis</u> WALLIS	✓		

Ronald J. Larson Larson
Chairman's Signature
Laura Hoffman Hoffman

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : HB 405
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 21-Feb-90 Agency Affected: Natural Resources
Title: An Act relating to Public Access BRU: Management & Administration
& changes to information
Sponsor: Brown, Boucher, Goll Components: Information Resource
Requestor: Brown Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	10.0	10.0	10.0	10.0	10.0	10.0
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

CAPITAL						
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REVENUE	10.0	10.0	10.0	10.0	10.0	10.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/Program Rcpt:	10.0	10.0	10.0	10.0	10.0	10.0
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Dianne M. Lyles Phone: 762-2384
Division: Management and Administration Date: 21-Feb-90
Approved by Commissioner: Lennie Gorsuch Date: 21-Feb-90
Agency: Department of Natural Resources

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

Adopted

8647

The Information Resources Management component, Department of Natural Resources, is requesting the authority to receive program receipts generated from the implementation of HB405. Under this bill, the Department has the responsibility to make information records available to the public, and for this the Department can collect fees. Additionally under this bill, the Department has the opportunity to create new information products and services. For this the Department can also collect fees.

The Information Resources Management (IRM) component, which manages and maintains many of the Department's land records, must be positioned to respond to public requests for information. Authority to receive these program receipts will allow the Department's IRM component to defray the incremental costs of serving the public's requests for land records information.

The requested amount, \$10.0, is the component manager's best estimate of revenue generation, without the benefit of any historic data for purposes of forecasting. Because fees will be charged based on covering incremental costs, and on recouping a reasonable portion of the costs associated with building and maintaining this information, agency costs are expected to match revenues generated.

FISCAL NOTE

REQUEST:

Revision Date: 02/07/90
Title: An act relating to public access and changes . . .
Sponsor: Representative Brown
Requestor: _____

Agency Affected: Fish and Game
BRU: ALL
Components: Office of the Commissioner

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	18.0	18.0	18.0	18.0	18.0	18.0
TRAVEL						
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	1.5	1.5	1.5	1.5	1.5	1.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	24.5	24.5	24.5	24.5	24.5	24.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER Program	24.5	24.5	24.5	24.5	24.5	24.5
TOTAL Receipts						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No FY 90 impact.

To reprogram and format information to respond to inquiries including chargeback and supplies cost.

Prepared by: Beverly Reabme *Beverly Reabme* Phone: 465-4120
Division: Administration Date: 02/22/90

Approved by Commissioner: Walter S. Williams *Walter S. Williams* Date: 02/22/90
Agency: Fish and Game

Distribution (by preparer):

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

Adopted

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Public access to the information of the state
Sponsor: Representative Brown
Requestor: _____

Agency Affected: Division of State Libraries
BRU: State Library
Components: Library Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY-91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	35.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	35.0					
CAPITAL						
REVENUE						

Adopted

FUNDING: (Thousands of Dollars)

GENERAL FUND	35.0					
FEDERAL FUNDS						
OTHER						
TOTAL	35.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) The intent of HB405 is to make government information available to the public. The bill requires public agencies to notify the State Library Distribution Center of electronic services and products offered. For the State Library to make that information available to the public it must be organized and made accessible. A contract employee will set up a uniform reporting format and then catalog/arrange information for entry.

Prepared by: Karen R. Crane Phone: 465-2910
Division: State Library and Archives Date: 2/15/90

Approved by Commissioner: *Steve Hoke* Date: 2/15/90
Agency: Department of Education

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

INCREMENT/DECREMENT DESCRIPTION (Limit to 98 Characters)
Inventory of State Databases

AGENCY CONTACT/PHONE NUMBER:
Mary Hakala - 2800

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

In addition to being an information consumer, the State produces vast amounts of information. Today much of that information is in an electronic format, housed on the State's mainframe computer or on personal computers scattered throughout State government. As a result, the information is not widely accessible. Much of it is managed on databases available only to those working with them.

A great deal of state information is collected and maintained in this format. Educational statistics, corporate data, natural resources information and more reside in departmental computers. There is no directory to or inventory of these information resources. As a result neither the public nor other state agencies have access to it. It is assumed that there is duplication of effort among state agencies in the collection of information and the types of statistics collected.

The Public Access Subcommittee of the Telecommunications Information Council (AS 44.19.502) has begun the process of identifying state databases. Once the information is collected, it will have to be organized and indexed by subject. In order for the information to be current, updated regularly, and accessible, it will have to be maintained online.

Some time will have to be devoted to organizing and indexing the information, for example, developing subject access. The State Library proposes to contract with a cataloger/librarian for initial development of the inventory. The information collected will not be of value unless it can be analyzed and is made available across state government.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services	35.0	
400	Supplies		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		35.0	
I-A Transfer (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	35.0	
1005	Program Receipts/GF		
1007	I-A Receipts		
	Other		
POSITION INFORMATION	PFT		
	PPT		
	Non Permanent		
	Staff Months		

<input type="checkbox"/> Enhance Existing Service	<input type="checkbox"/> Formula Program
<input checked="" type="checkbox"/> Compared to FY 90	
<input type="checkbox"/> New Service Compared to FY 90	
<input type="checkbox"/> Continuation of FY 90 Service Level	

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Pa _____

CS INCREMENT/DECREMENT
REQUEST

AGENCY PRIORITY 5 OF _____

AGENCY Department of Education

BRU Alaska State Library

COMPONENT Library Operations

PROJECT Inventory of State Databases

Page _____

Rev _____

STATE OF ALASKA

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

FEB 15 1990

February 15, 1990

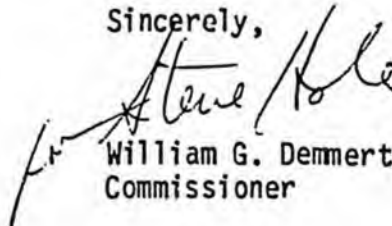
The Honorable Kay Brown
Alaska State House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Brown:

Attached is the proposed fiscal note for CSHB405. I believe it conforms to the discussion and agreement you had with Karen Crane. I have also attached for your information a copy of the increment request submitted by the State Library and Archives. If you have questions or concerns, please contact me or Karen.

While the fiscal note indicates a one time cost, we want to be clear about our intent. The reason the State Library originally submitted an increment for a contract employee is that there is no reasonable way to determine the amount of work this will generate. It was felt that a contractual approach would allow us to evaluate the response and document the need for staff. The library believes that staff will be necessary if the information is to be kept current and made available to the public. In addition, the volume of electronic products and services will continue to grow. However, the contractual amount proposed in the fiscal note is a reasonable approach to determining the next step.

Sincerely,



William G. Demmert
Commissioner

by: Karen R. Crane
Director
State Library and Archives

Enclosure

Original sponsor(s): REP. BROWN, Boucher, Goll, Ellis

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 405 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to requests for information by
7 public agencies; relating to public access to and
8 changes to the information of public agencies; and
9 relating to the copyrighting of software produced by
10 or for public agencies."

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

12 * Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature
13 finds that

14 (1) public access to government information is a fundamental
15 right that operates to check and balance the actions of elected and ap-
16 pointed officials and to maintain citizen control of government;

17 (2) computers and electronic data bases have proliferated
18 throughout government raising issues regarding access to electronic infor-
19 mation that are not addressed in present law;

20 (3) to protect the public's right to know, public records must
21 be available at nominal cost;

22 (4) to protect an individual's right to privacy under the state
23 and federal constitutions, the state should inform individuals if personal
24 information about them will be subject to public disclosure;

25 (5) an individual should have the opportunity to change personal
26 information contained in public records if the information is inaccurate or
27 incomplete;

28 (6) if public agencies increase electronic access to the state's
29 information systems, particularly for the more isolated communities of the

1 state, the delivery of public services and the availability of informatio
2 throughout the state would be enhanced;

3 (7) public access to state and municipal information system
4 will be enhanced by establishing user fees for electronic services an
5 products that are calculated to recover a reasonable portion of the cost
6 associated with building and maintaining a public information system.

7 (b) Except for personal information, if a provision in this Act i
8 determined to be ambiguous as to whether a record is subject to disclosur
9 to the public, the ambiguity shall be construed in favor of disclosure.

10 * Sec. 2. AS 09.25.110 is amended to read:

11 Sec. 09.25.110. INSPECTION AND COPIES OF PUBLIC RECORDS. Unles
12 specifically provided otherwise, the [BOOKS, RECORDS, PAPERS, FILES
13 ACCOUNTS, WRITINGS, AND TRANSACTIONS OF ALL AGENCIES AND DEPARTMENT
14 ARE] public records of all public agencies [AND] are open to inspec
15 tion by the public under reasonable rules during regular office hours
16 The public officer having the custody of public records shall give c
17 request and payment of the fee established under this section c
18 AS 09.25.115 [COSTS] a certified copy of the public record.

19 * Sec. 3. AS 09.25.110 is amended by adding new subsections to read:

20 (b) Except as otherwise provided in this section, the fee fo
21 copying public records may not exceed the standard unit cost of dupli
22 cation established by the public agency.

23 (c) If the production of records for one requester in a calenda
24 month exceeds five person-hours, the public agency shall require th
25 requester to pay the personnel costs required during the month t
26 complete the search and copying tasks. The personnel costs may no
27 exceed the actual salary and benefit costs for the personnel tin
28 required to perform the search and copying tasks. The requester shal
29 pay the fee before the records are disclosed, and the public agenc

008653

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

1 state, the delivery of public services and the availability of information
2 throughout the state would be enhanced;

3 (7) public access to state and municipal information systems
4 will be enhanced by establishing user fees for electronic services and
5 products that are calculated to recover a reasonable portion of the costs
6 associated with building and maintaining a public information system.

7 (b) Except for personal information, if a provision in this Act is
8 determined to be ambiguous as to whether a record is subject to disclosure
9 to the public, the ambiguity shall be construed in favor of disclosure.

10 * Sec. 2. AS 09.25.110 is amended to read:

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12 specifically provided otherwise, the [BOOKS, RECORDS, PAPERS, FILES,
13 ACCOUNTS, WRITINGS, AND TRANSACTIONS OF ALL AGENCIES AND DEPARTMENTS
14 ARE] public records of all public agencies [AND] are open to inspec-
15 tion by the public under reasonable rules during regular office hours.
16 The public officer having the custody of public records shall give on
17 request and payment of the fee established under this section or
18 AS 09.25.115 [COSTS] a certified copy of the public record.

19 * Sec. 3. AS 09.25.110 is amended by adding new subsections to read:

20 (b) Except as otherwise provided in this section, the fee for
21 copying public records may not exceed the standard unit cost of dupli-
22 cation established by the public agency.

23 (c) If the production of records for one requester in a calendar
24 month exceeds five person-hours, the public agency shall require the
25 requester to pay the personnel costs required during the month to
26 complete the search and copying tasks. The personnel costs may not
27 exceed the actual salary and benefit costs for the personnel time
28 required to perform the search and copying tasks. The requester shall
29 pay the fee before the records are disclosed, and the public agency

1 may require payment in advance of the search.

2 (d) A public agency may reduce or waive a fee when the public
3 agency determines that the reduction or waiver is appropriate. Fee
4 reductions and waivers shall be uniformly applied among persons who
5 are similarly situated. A public agency may waive a fee of \$5 or less
6 if the fee is less than the cost to the public agency to arrange for
7 payment.

8 (e) Notwithstanding other provisions of this section to the
9 contrary, the Bureau of Vital Statistics, the library archives in the
10 Department of Education, and the division of banking, securities, and
11 corporations in the Department of Commerce and Economic Development
12 may continue to charge the same fees that they are charging on the
13 effective date of this Act for performing record searches.

14 (f) Electronic information that is provided in printed form
15 shall be made available without codes or symbols, unless accompanied
16 by an explanation of the codes or symbols.

17 * Sec. 4. AS 09.25 is amended by adding a new section to read:

18 Sec. 09.25.115. ELECTRONIC SERVICES AND PRODUCTS. (a) Notwith-
19 standing AS 09.25.110(b) - (d) to the contrary, upon request and
20 payment of a fee established under (b) of this section, a public
21 agency may provide electronic services and products involving public
22 records to members of the public. A public agency is encouraged to
23 make information available in usable electronic formats to the great-
24 est extent feasible.

25 (b) A public agency shall establish a fee for electronic ser-
26 vices and products based on recovery of the actual incremental costs
27 of providing the electronic services and products, and a reasonable
28 portion of the costs associated with building and maintaining the
29 information system of the public agency. The fee may be reduced or

1 waived by the public agency if the electronic services and products
2 are to be used for a public purpose, including public agency program
3 support, nonprofit activities, journalism, and academic research. Fee
4 reductions and waivers shall be uniformly applied among persons who
5 are similarly situated.

6 (c) Notwithstanding (b) of this section, the fee for duplicating
7 a public record in the electronic form kept by a public agency may not
8 exceed the actual incremental costs of the public agency.

9 (d) Public agencies shall include in a contract for electronic
10 services and products provisions that

11 (1) protect the security and integrity of the information
12 system of the public agency and of information systems that are shared
13 by public agencies; and

14 (2) limit the liability of the public agency providing the
15 services and products.

16 (e) Each public agency shall notify the state library distribu-
17 tion and data access center established under AS 14.56.090 of the
18 electronic services and products offered by the public agency to the
19 public under this section. The notification must include a summary of
20 the available format options and the fees charged.

21 (f) When offering on-line access to an electronic file or data
22 base, a public agency also shall provide without charge on-line access
23 to the electronic file or data base through one or more public ter-
24 minals.

25 (g) Each public agency shall establish the fees for the elec-
26 tronic services and products provided under this section. The Tele-
27 communications Information Council may cancel the fees established by
28 a public agency in the executive branch, including the Alaska State
29 Housing Authority, the University of Alaska, and the Alaska Railroad

1 Corporation, if the council determines that the fees are not reason-
2 able.

3 (h) A public agency may not make electronic services and prod-
4 ucts available to one member of the public and withhold them from
5 other members of the public.

6 (i) A public agency other than a municipality shall separately
7 account for the fees received by the agency under this section and
8 deposited in the general fund. The annual estimated balance in the
9 account may be used by the legislature to make appropriations to the
10 agency to carry out the activities of the agency.

11 * Sec. 5. AS 09.25.120 is amended to read:

12 Sec. 09.25.120. INSPECTION AND COPYING OF PUBLIC RECORDS. Every
13 person has a right to inspect a public [WRITING OR] record in the
14 state, including public [WRITINGS AND] records in recorders' offices
15 except (1) records of vital statistics and adoption proceedings which
16 shall be treated in the manner required by AS 18.50; (2) records
17 pertaining to juveniles; (3) medical and related public health re-
18 cords; (4) records required to be kept confidential by a federal law
19 or regulation or by state law; (5) records or information compiled for
20 law enforcement purposes, but only to the extent that the production
21 of the law enforcement records or information (A) could reasonably be
22 expected to interfere with enforcement proceedings, (B) would deprive
23 a person of a right to a fair trial or an impartial adjudication, (C)
24 could reasonably be expected to constitute an unwarranted invasion of
25 personal privacy, (D) could reasonably be expected to disclose the
26 identity of a confidential source, (E) would disclose techniques and
27 procedures for law enforcement investigations or prosecutions, (F)
28 would disclose guidelines for law enforcement investigations or prose-
29 cutions if the disclosure could reasonably be expected to risk

1 circumvention of the law, or (G) could reasonably be expected to
2 endanger the life or physical safety of an individual. Except as
3 provided in AS 09.25.215, every [. EVERY] public officer having the
4 custody of records not included in the exceptions shall permit the
5 inspection, and give on demand and on payment of the [LEGAL] fees
6 under AS 09.25.110 - 09.25.115 [THEREFOR] a certified copy of the
7 [WRITING OR] record, and the copy shall in all cases be evidence of
8 the original. Recorders shall permit memoranda, transcripts, and
9 copies of the public [WRITINGS AND] records in their offices to be
10 made by photography or otherwise for the purpose of examining titles
11 to real estate described in the public [WRITINGS AND] records, making
12 abstracts of title or guaranteeing or insuring the titles of the real
13 estate, or building and maintaining title and abstract plants; and
14 shall furnish proper and reasonable facilities to persons having
15 lawful occasion for access to the public [WRITINGS AND] records for
16 those purposes, subject to reasonable rules and regulations, in con-
17 formity to the direction of the court, as are necessary for the pro-
18 tection of the [WRITINGS AND] records and to prevent interference with
19 the regular discharge of the duties of the recorders and their employ-
20 ees.

21 * Sec. 6. AS 09.25 is amended by adding new sections to read:

22 Sec. 09.25.123. SUPERVISION AND REGULATION. (a) The Telecommu-
23 nications Information Council shall supervise and adopt regulations
24 for the operation and implementation of AS 09.25.110 - 09.25.140 by
25 public agencies in the executive branch, including the Alaska State
26 Housing Authority, the University of Alaska, and the Alaska Railroad
27 Corporation.

28 (b) The legislative council shall supervise and adopt procedures
29 for the operation and implementation of AS 09.25.110 - 09.25.140 by

1 public agencies in the legislative branch.

2 (c) The administrative director of courts shall supervise and
3 adopt procedures for the operation and implementation of AS 09.25.-
4 110 - 09.25.140 by public agencies in the judicial branch.

5 (d) The regulations and procedures adopted under this section
6 must include the establishment of procedures for appealing public
7 agency action that is taken under AS 09.25.110 - 09.25.140.

8 (e) In this section,

9 (1) "action" includes the calculation of a fee, the denial
10 of a fee reduction or waiver and the denial of a request to inspect or
11 copy a public record;

12 (2) "public agency" does not include a municipality.

13 Sec. 09.25.124. APPEALS. A person may appeal to the superior
14 court the final administrative order made by a public agency under
15 AS 09.25.110 - 09.25.140.

16 * Sec. 7. AS 09.25.125 is amended to read:

17 Sec. 09.25.125. ENFORCEMENT: INJUNCTIVE RELIEF. A person having
18 custody or control of a public record who obstructs or attempts to
19 obstruct, or a person not having custody or control who aids or abets
20 another person in obstructing or attempting to obstruct, the inspec-
21 tion of a public record subject to inspection under AS 09.25.110 or
22 09.25.120 may be enjoined by the superior court from obstructing, or
23 attempting to obstruct, the inspection of public records subject to
24 inspection under AS 09.25.110 or 09.25.120. A person may seek injunc-
25 tive relief under this section without exhausting the person's admin-
26 istrative remedies under AS 09.25.123 - 09.25.124.

27 * Sec. 8. AS 09.25 is amended by adding a new section to read:

28 Sec. 09.25.215. INTENT REGARDING AMBIGUITY. If the application
29 of AS 09.25.100 - 09.25.220 to personal information is ambiguous as to

1 whether the application violates art. I, sec. 22, Constitution of the
2 State of Alaska, the ambiguity shall be construed in favor of the
3 right of privacy. In this section, "personal information" has the
4 meaning given in AS 44.99.040.

5 * Sec. 9. AS 09.25.220 is amended to read:

6 Sec. 09.25.220. DEFINITIONS. In AS 09.25.100 - 09.25.220
7 [AS 09.25.150 - 09.25.220], unless the context otherwise requires,

8 (1) "electronic services and products" means computer-
9 related services and products provided by a public agency, including

10 (A) electronic manipulation of the data contained in
11 public records in order to tailor the data to the person's re-
12 quest or to develop a product that meets the person's request;

13 (B) duplicating public records in alternative formats
14 not used by a public agency, or providing periodic updates of an
15 electronic file or data base;

16 (C) providing on-line access to an electronic file or
17 data base;

18 (D) providing information that cannot be retrieved or
19 generated by the existing computer programs of the public agency;

20 (E) providing functional electronic access to the
21 information system of the public agency; in this subparagraph,
22 "functional access" includes the capability for alphanumeric
23 query and printing, graphic query and plotting, nongraphic data
24 input and analysis, and graphic data input and analysis;

25 (F) providing software developed by a public agency or
26 developed by a private contractor for a public agency;

27 (G) providing maps or other standard or customized
28 products from an electronic geographic information system;

29 (2) "news organization" means

1 (A) an individual, partnership, corporation or other
2 association regularly engaged in the business of

3 (i) publishing a newspaper or other periodical
4 that reports news events, is issued at regular intervals and
5 has a general circulation;

6 (ii) providing newsreels or other motion picture
7 news for public showing; or

8 (iii) broadcasting news to the public by wire,
9 radio, television or facsimile;

10 (B) a press association or other association of indi-
11 viduals, partnerships, corporations, or other associations de-
12 scribed in (A)(i), (ii), or (iii) of this paragraph engaged in
13 gathering news and disseminating it to its members for publica-
14 tion;

15 (3) [(2)] "privilege" means the conditional privilege gran-
16 ted to public officials and reporters to refuse to testify as to a
17 source of information;

18 (4) [(3)] "public official" means a person elected to a
19 public office created by the Constitution or laws of this state,
20 whether executive, legislative, or judicial, and who was holding that
21 office at the time of the communication for which privilege is claim-
22 ed;

23 (5) "public agency" means a department, institution, board,
24 commission, division, authority, public corporation, committee, or
25 other administrative entity of the executive, judicial, or legislative
26 branch of state government, or of a municipality; "public agency" in-
27 cludes the University of Alaska, the Alaska State Housing Authority,
28 and the Alaska Railroad Corporation;

29 (6) "public records" means books, papers, files, accounts.

1 writings, including drafts and memorializations of conversations, and
2 other items, regardless of format or physical characteristics, that
3 are developed or received by a public agency, or by a private contrac-
4 tor for a public agency, and that are preserved for their information-
5 al value or as evidence of the organization or operation of the public
6 agency; "public records" does not include proprietary software pro-
7 grams;

8 (7) [(4)] "reporter" means a person regularly engaged in the
9 business of collecting or writing news for publication, or presenta-
10 tion to the public, through a news organization; it includes persons
11 who were reporters at the time of the communication, though not at the
12 time of the claim of privilege;

13 (8) "Telecommunications Information Council" means the
14 Telecommunications Information Council established under AS 44.19.502.

15 * Sec. 10. AS 14.56.120(b) is amended to read:

16 (b) Each state agency shall notify the center of the creation of
17 all data published or compiled by or for it at public expense, includ-
18 ing automated data bases, and provide for its accessibility through
19 the center [,] unless the data is protected by the constitutional
20 right to privacy or is of a type stated by law to be confidential or
21 the agency is otherwise prohibited by law from doing so.

22 * Sec. 11. AS 16.05.815(a) is amended to read:

23 (a) Except as provided in (b) and (c) of this section, records
24 required by regulations of the department concerning the landings of
25 sport fish, shellfish, or fishery products, [AND] annual statistical
26 reports of buyers and processors required by regulation, records of
27 the telemetry radio frequencies of monitored species, denning sites,
28 location of fish and wildlife species when the knowledge may be detri-
29 mental to the population, and uncorrected raw research data of the

1 department are confidential and may not be released by the department,
2 except that the telemetry radio frequencies of monitored species, the
3 denning sites, the location of fish and wildlife species, and uncor-
4 rected raw research data shall be released by the department upon
5 publication of a final report on the data or two years after com-
6 pletion of the research, whichever occurs first [EXCEPT AS SET OUT IN
7 THIS SUBSECTION]. The department may release the records and reports
8 set out in this subsection to the recipients identified in this sub-
9 section if the recipient, other than a recipient under (4) - (6) of
10 this subsection, agrees to maintain the confidentiality of the records
11 and reports. The department may release

12 (1) [ANY OF] its records and reports to the National Marine
13 Fisheries Service and the professional staff of the North Pacific
14 Fishery Management Council as required for preparation and implementa-
15 tion of the fishery management plans of the North Pacific Fishery
16 Management Council within the exclusive economic zone;

17 (2) [ANY OF] its records and reports to the Department of
18 Revenue and to the Alaska Commercial Fisheries Entry Commission to
19 assist them in carrying out their statutory responsibilities;

20 (3) records or reports of the total value purchased by each
21 buyer to a municipality that levies and collects a tax on fish, shell-
22 fish, or fishery products if the municipality requires records of the
23 landings of fish, shellfish, or fishery products to be submitted to it
24 for purposes of verification of taxes payable;

25 (4) such records and reports as necessary to be in confor-
26 mity with a court order;

27 (5) on request, the report of a person to the person whose
28 fishing activity is the subject of the report;

29 (6) fish tickets and fish ticket information to the

1 division of fish and wildlife protection, Department of Public Safety;
2 and

3 (7) fish tickets and fish ticket information regarding
4 halibut to the International Pacific Halibut Commission.

5 * Sec. 12. AS 18.50.310(f) is amended to read:

6 (f) Notwithstanding the provisions of AS 09.25.120, when 100
7 years have elapsed after the date of a birth, or 50 years have elapsed
8 after the date of a death, marriage, divorce, dissolution of marriage,
9 or annulment, the records of these events in the custody of the state
10 registrar become public records subject to inspection and copying as
11 provided in AS 09.25.110 - 09.25.140 [AS 09.25.110 AND AS 09.25.121 -
12 09.25.125].

13 * Sec. 13. AS 29.71 is amended by adding a new section to read:

14 Sec. 29.71.060. COPYRIGHTS. A municipality may hold the copy-
15 right for software created by the municipality or developed by a
16 contractor for the municipality, and may enforce its rights to protect
17 the copyright.

18 * Sec. 14. AS 40.21.030(a) is amended to read:

19 (a) In order to carry out the archival program, the state archi-
20 vist shall:

21 (1) negotiate for, acquire, and receive public records of
22 permanent value including public records of the state and political
23 subdivisions of the state and of defunct public agencies;

24 (2) establish and operate a state archival depository that
25 [WHICH] shall provide for the preservation, arrangement, repair,
26 rehabilitation, duplication, reproduction, description, and exhibition
27 of permanent public records or other documentary material transferred
28 to, or acquired by the state archivist;

29 (3) review and approve all agency records retention

1 schedules to identify and to ensure the preservation of those records
2 having permanent value;

3 (4) make permanent records under the supervision of the
4 archivist, other than those required by AS 09.25.120 to be kept confi-
5 dential, available for public use at reasonable times;

6 (5) for a fee established under AS 09.25.110 - 09.25.115,
7 make available to any person [FOR A REASONABLE FEE] copies of archival
8 material under AS 09.25.120;

9 (6) adopt a seal for official use and for certification of
10 record copies which copies shall have the same force and effect as if
11 made by the original custodian of the records;

12 (7) negotiate payment for the acquisition of public records
13 with the possessor of them;

14 (8) if negotiations under (7) of this subsection are unsuc-
15 cessful or if the person in possession of the public records is un-
16 willing to enter into those negotiations, arrange with the person in
17 possession for the microfilming of the records;

18 (9) accept gifts, bequests, and endowments for purposes
19 consistent with the objectives of this chapter;

20 (10) prepare inventories, indexes, catalogs, and other
21 finding aids or guides to facilitate the use of the archives;

22 (11) accept documents, including motion picture film, still
23 pictures, and sound recordings, that are appropriate for preservation
24 by the state as evidence of its organization, functions, policies,
25 decisions, procedures, and transactions.

26 * Sec. 15. AS 44.99 is amended by adding new sections to read:

27 ARTICLE 1A. PERSONAL INFORMATION IN PUBLIC RECORDS.

28 Sec. 44.99.020. NOTICE REGARDING PERSONAL INFORMATION. (a)

29 When a state agency requests personal information directly from the

1 person who is the subject of the information, the agency shall give
2 the person an oral or written notice at the time of the request that
3 states

4 (1) the name and address of the agency;

5 (2) the citation of the statute or regulation that author-
6 izes the agency to request the information;

7 (3) a statement indicating whether the person is required
8 to supply the information;

9 (4) the consequences to the person, if any, of not provid-
10 ing all or part of the requested information;

11 (5) a statement of the agency's anticipated uses of the
12 information, including the agency's internal uses of the information
13 and disclosure of the information to other state agencies; and

14 (6) the fact that the information may be subject to in-
15 spection and copying under AS 09.25.110 - 09.25.120.

16 (b) An agency may provide the written notice required under (a)
17 of this section by

18 (1) placing the notice on the form used to request the
19 information from the person;

20 (2) giving the person the notice on a separate sheet that
21 accompanies the form used to request the information from the person;

22 (3) giving the person a statement in a pamphlet, booklet,
23 manual, or other printed matter at the time the information on the
24 person is requested; or

25 (4) prominently posting a sign containing the notice in a
26 prominent location so that the sign can be easily observed and read by
27 the person at the time the information is requested.

28 (c) This section does not apply to a request for information on
29 a person if

1 (1) the request is made by a peace officer; in this para-
2 graph, "peace officer" has the meaning given in AS 01.10.060;

3 (2) the person is the agency's employee;

4 (3) the information is related to litigation; or

5 (4) the information is being collected by a public agency
6 when investigating a possible violation of law.

7 Sec. 44.99.030. INFORMATION ACCURACY AND COMPLETENESS. (a) A
8 person who is the subject of personal information that is maintained
9 by a state agency and subject to public disclosure under AS 09.25.-
10 110 - 09.25.140 may challenge the accuracy or completeness of the
11 personal information.

12 (b) To challenge the accuracy or completeness of personal infor-
13 mation under (a) of this section, the person must file with the state
14 agency a written request that the personal information be changed.
15 The request must provide

16 (1) a description of the challenged personal information;

17 (2) the changes necessary to make the personal information
18 accurate or complete; and

19 (3) the person's name and the address where the department
20 may contact the person.

21 (c) Within 30 days after receiving a written request made under
22 (b) of this section, the state agency may request verification of the
23 disputed personal information from the person who made the request.

24 (d) Within 30 days after receiving the written request under (b)
25 of this section or the verification under (c) of this section, the
26 state agency shall review the request and

27 (1) change the personal information according to the re-
28 quest and notify the person in writing of the change; or

29 (2) deny the request and notify the person in writing of

1 the reasons for the decision and the name, title, and business address
2 of the person who denied the request..

3 (e) If a request is denied under (d) of this section, the person
4 may provide to the state agency a concise written statement that
5 states the person's reasons for disagreeing with the decision. The
6 state agency shall maintain in its records the request made under (b)
7 of this section and the statement provided by the person under this
8 subsection. On all of the state agency's records that contain the
9 disputed information, the state agency shall clearly note which por-
10 tions of the records are disputed. If the record is in electronic
11 form, the state agency may note the dispute in one field of the elec-
12 tronic form and maintain the other information about the dispute in
13 paper form.

14 (f) This section does not apply to criminal intelligence or
15 criminal investigative records, state agency personnel or retirement
16 system records, records of applicants for employment with the state
17 agency, or information in documents recorded under AS 40.17.

18 Sec. 44.99.040. DEFINITIONS. In AS 44.99.020 - 44.99.040,

19 (1) "person" means an individual;

20 (2) "personal information" means information that can be
21 used to identify a person and from which judgments can be made about a
22 person's character, habits, avocations, finances, occupation, general
23 reputation, credit, health, or other personal characteristics, but
24 does not include a person's name, address, or telephone number, if the
25 number is published in a current telephone directory, or information
26 describing a public job held by a person;

27 (3) "state agency" means a department, institution, board,
28 commission, division, authority, public corporation, committee, or
29 other administrative unit of the executive, judicial, or legislative

1 branch of state government, including the University of Alaska, the
2 Alaska State Housing Authority, and the Alaska Railroad Corporation.

3 ARTICLE 1B. COPYRIGHTS BY STATE AGENCIES.

4 Sec. 44.99.050. COPYRIGHTS. A state agency may hold the copy-
5 right for software created by the agency or developed by a private
6 contractor for an agency, and may enforce its rights to protect the
7 copyright. In this section, "state agency" means a department, insti-
8 tution, board, commission, division, authority, public corporation,
9 committee, or other administrative unit of the executive, judicial, or
10 legislative branch of state government, including the University of
11 Alaska, the Alaska State Housing Authority, and the Alaska Railroad
12 Corporation.

13 * Sec. 16. AS 44.99.020, as enacted by sec. 15 of this Act, applies to
14 requests for personal information made by a state agency on or after the
15 effective date of this Act.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1990

SUBJECT: Changes to CSHB 405 (Finance)
(Work Order No. 6-1782D, 2-26-90)

TO: Representative Ron Larson
Co-Chair, Finance Committee

FROM: Theresa L. Bannister ^{2/28}
Legislative Counsel

This memo accompanies the draft of the above-referenced bill.

Please note that with the permission of the amendment sponsor, Representative Rieger's new section was renumbered as AS 09.25.215 and a spanned reference to AS 09.25.100 - 09.25.220 was substituted for AS 09.25.

Also, please note that the language of sec. 11 of the bill was not clear in several significant respects, and certain changes have been made to clarify the language so that it conforms to the intent of the sponsors of the language. These changes are explained in the following paragraphs.

1. In sec. 11 of the bill, it was unclear what types of information were modified by the clause "when the knowledge may be detrimental to the population". After consulting with the sponsor of the amendment, it was determined that the clause was intended only to modify "location of fish and wildlife species". To achieve that intent, the comma between "species" and "when" in the amendment was removed.

2. In sec. 11 of the bill, it was unclear which of the types of information was modified by the clause "until two years after completion of the research or publication of a final report". After consulting with the sponsor of the language, it was determined that the clause was intended only to modify the newly added types of information (the

Representative Ron Larson

Page 2

February 27, 1990

frequencies, denning sites, location of species, and raw research data). To achieve this, the subsection was rewritten to limit the clause to these items.

3. In sec. 11 of the bill it appeared that the phrase "two years after" modified both "completion of the research" and "publication of a final report". However, the sponsor of the language indicated that he intended the two-year period only to apply to the "completion of the research". To achieve this, the phrase was rewritten to read "upon publication of a final report on the data or two years after completion of the research, whichever occurs first". The phrase was also recast in the positive to avoid a confusing "may not . . . except may not" construction, and the "may not" was changed to "shall" pursuant to the sponsor's indicated intent.

If this draft meets with your approval, please advise and we will produce the final for you.

TB:pl
WKP2/096

Enclosure



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

TO: Representative Ron Larson, Co-chairman
Representative Lyman Hoffman, Co-chairman
House Finance Committee

FROM: Representative Kay Brown

DATE: February 20, 1990

Kay

SUBJECT: HB 405 (access to information)

Thank you for scheduling CS HB 405 (State Affairs) for a hearing before the House Finance Committee. I am proposing a Finance Committee substitute to address issues that have arisen since the bill left State Affairs.

The major provisions of the bill would:

- **Govern access to and fees for obtaining public records.** The provisions are consistent with current regulations and case law, and cover all agencies of the executive, legislative, judicial branches of state government, and of municipalities.
- **Establish discretionary authority for public agencies to offer to the public electronic services and products, and criteria for setting fees.** The intent is that electronic services and products would be offered if there is sufficient public demand to generate enough fees (program receipts) to cover the costs.
- **Direct the Telecommunications Information Council to oversee implementation and adopt regulations for certain portions of the bill.**
- **Authorize state agencies and municipalities to copyright software.**
- **Address privacy rights of individuals by requiring state agencies to inform individuals that personal information may be**

subject to public disclosure, and providing a process to correct inaccurate personal information in public files.

- Define terms, including "public records," "electronic services and products," and "personal information."

Proposed Finance Committee Substitute

The changes incorporated in the proposed Finance Committee substitute are:

- Page 1, lines 6-7. Change in title suggested by drafter.
- Page 3, lines 14-19. Addition of new subsections in response to requests from the Bureau of Vital Statistics, library archives, and the division of banking, securities and corporations in the Department of Commerce and Economic Development to continue exemptions under current regulations that allow these agencies to include personnel time in calculating fees for records searches of less than 10 hours in a month.
- Page 5, lines 12-14, addition of new subsection in response to comment by Assistant Attorney General Jeff Bush (correspondence in file). The addition provides that "a public agency may not make electronic services and products available to one member of the public and withhold them from other members of the public."
- Pages 6-7, deletion of language in Secs. 6 and 7 in response to comment by Jeff Bush. Deletes provision that a person who appeals a final administrative order or who seeks injunctive relief in superior court may not be required to post a bond.
- Page 7, lines 16-17. Change in response to comment by Jeff Bush. Adds "in alternative formats not used by a public agency" to clarify that duplicating a public record in the electronic form kept by a public agency is to be available for the actual cost, and not for the higher fee that can be charged for an "electronic service or product."
- Page 11, line 21, deletion of language "and the information requested will be subject to inspection and copying under AS 09.25.110-120". Page 12, line 5, deletes "will" and inserts "may". These changes have the effect of requiring agencies to give the notice

for all personal information collected, and to advise individuals that it may be subject to disclosure.

These changes were made in response to comments from Jeff Bush and John McKay, an Anchorage attorney who specializes in public information access. Bush pointed out that it will be quite difficult for agencies to determine on a broad basis, in the absence of a specific request, whether personal information will or will not be subject to disclosure. The constitutional right to privacy has been interpreted in various cases to prevent disclosure of "embarrassing" personal information, Bush said. McKay said agencies should not be required to determine in advance whether information ultimately will be subject to disclosure.

- Page 12, lines 24-26, addition of language in response to comment by Jeff Bush. The addition adds two categories of information where the notice requirement does not apply -- information that is related to litigation, or is collected by a public agency when investigating a possible violation of law.

- Page 15, lines 3-5. New Section 15 suggested by Jeff Bush and others to clarify that notice provisions regarding personal information apply only to information collected after the effective date of the Act.

I look forward to discussing HB 405 with the committee. Please let me know if I can answer any questions.

cc: House Finance Committee members

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
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P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

February 21, 1990

FEB 21 1990

The Honorable Kay Brown
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: 2/16/90 Proposed CSHB 405 (Fin) -
- Public Access to information
of public agencies

Dear Representative ^{Kay} Brown:

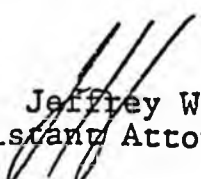
Thank you for giving me an opportunity to review the new proposed Finance Committee substitute for House Bill 405, dated February 16, 1990. In my earlier letter to you of February 12, I attempted to identify a number of problems or issues raised by the State Affairs version of this bill; the proposed Finance CS eliminates my concerns.

I must clarify that my letters are intended to improve the legislation from a legal perspective. I do not know, nor am I in a position to say, what the Administration's policy position is on this bill. Please feel free to contact me if I can be of any further assistance.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By:


Jeffrey W. Bush
Assistant Attorney General

JWB:prm

Rep. Brown
2/20/90

Overview
CS HB 405 (proposed Finance)

Major provisions	Bill section	Municipalities covered?
Fees for public records:		
* paper duplication	3, (b)	yes
large requests (10+ hours/mo.) duplication + personnel costs	3, (c)	yes
* electronic public records actual cost	4, (c)	yes
* electronic services and products actual cost + reasonable portion of system overhead	4, (b)	yes
Agencies set fees under regulations adopted by TIC	4,(g)	no
Notice to state library of electronic products and services (formats and fees)	4, (e)	yes
Program receipts accounting for fees	4,(j)	no
Copyright software	11, 13	yes
Personal information notice by state agencies	13	no
Change inaccurate personal information in public files	13	no

February 20, 1990
Representative Kay Brown

OVERVIEW OF CS FOR HB 405 (PROPOSED FINANCE)

- Section 1: Legislative Findings and Intent.
- Section 2: Amends existing statute AS 9.25.110 to conform with proposed new sections of the bill.
- Section 3: Adds new subsections to AS 9.25.110 that establish criteria to determine fees for public records.
- Section 4: New section AS 9.25.115 establishes discretionary authority for public agencies to offer electronic services and products and criteria for establishing fees.
- Section 5: Amends AS 9.25.120 to conform with proposed new sections of the bill.
- Section 6: New section AS 9.25.123 addresses administrative appeal process when request for public information is denied.
- Section 7: Amends AS 9.25.125, Enforcement by Injunctive Relief. A person would be allowed, if denied public information by a public agency, to go directly for judicial relief without undertaking an administrative appeal process.
- Section 8: Adds definitions of terms used in proposed new sections.
- Section 9: Amends AS 14.56.12C (b), notification by state agencies to the state library to include automated data bases that are part of the public record.
- Section 10: Amends existing statute AS 18.50.319 (f) to be consistent with proposed new sections.
- Section 11: Adds new section, AS 29.71.060, that grants municipalities authority to hold copyrights on software developed by the municipality or by a contractor for the municipality.

Section 12: Amends AS 40.21.030(a) to be consistent with proposed new sections.

Section 13: Adds four new sections in AS 44.90 covering personal information in public records and copyrights by state agencies.

- o Establishes a notification procedure for public agencies to follow when requesting personal information.

- o Establishes a procedure for a person to correct incorrect personal information held by a public agency.

- o Defines terms used in new sections.

- o Allows state agencies to hold copyright on software created by an agency or a private contractor for an agency.

Section 14: o Provides that the personal information notice provisions of Section 13 apply to information collected after the effective date.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 22, 1990

SUBJECT: Sectional summary of CSHB 405 (Finance)
(6-1782D, 2-22-90)

TO: Representative Kay Brown

FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have requested a sectional summary of the above described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 provides findings and intent for the bill.

Section 2 makes the public records of all public agencies open to inspection by the public under reasonable rules during regular office hours, except where specifically provided otherwise. Directs the custodial public officer to provide on request and on payment of a specified fee a certified copy of the public record.

Section 3. Sec. 09.25.110(b) establishes, except as otherwise provided, that the basic fee for copying public records may not exceed the standard unit cost of duplication established by the public agency. Requires the fee to be paid in advance, except for news organizations.

Sec. 09.25.110(c) authorizes the public agency to charge personnel costs for record production under certain circumstances. Limits personnel costs to the actual salary and benefit costs for performing the search and copying tasks. Except for news organizations, requires the fee to be paid

before the records are disclosed and authorizes the agency to require payment in advance of the search. Prohibits requiring a news organization to pay the personnel costs except in certain circumstances.

Sec. 09.25.110(d) authorizes a public agency to reduce or waive a fee in certain circumstances. Requires that fee reductions and waivers be uniformly applied. Authorizes a public agency to waive a fee of \$5 or less if the fee is less than the cost to arrange payment.

Sec. 09.25.110(e) authorizes the Bureau of Vital Statistics, the library archives, and the Division of Banking, Securities, and Corporations to continue charging the same fees for performing record searches.

Sec. 09.25.110(f) requires that electronic information provided in printed form be made available without codes or symbols, unless accompanied by an explanation of the codes or symbols.

Section 4. Sec. 09.25.115(a) authorizes a public agency, upon request and fee payment, to provide electronic services and products involving public records to members of the public. Encourages public agencies to make information available in usable electronic formats to the greatest extent feasible.

Sec. 09.25.115(b) indicates how fees are to be set for electronic services and products. Authorizes the reduction or waiver of a fee under certain circumstances. Requires that fee reductions and waivers be uniformly applied.

Sec. 09.25.115(c) establishes that the fee for duplicating a public record in the electronic form kept by a public agency may not exceed the actual incremental costs of the public agency.

Sec. 09.25.115(d) requires public agencies to include certain security and liability provisions in contracts for electronic services and products.

Sec. 09.25.115(e) requires each public agency to notify the state library of the electronic services and products offered by the agency under sec. 09.25.115. Requires the notification to include a summary of the available format options and the fees charged.

Sec. 09.25.115(f) requires public agencies that offer on-line access to an electronic file or data base to also provide without charge on-line access to the electronic file or data base through one or more public terminals.

Sec. 09.25.115(g) directs each public agency to establish the fees for the electronic services and products. Authorizes the TIC to cancel unreasonable fees of public agencies in the executive branch.

Sec. 09.25.115(h) prohibits a public agency from making electronic services and products available to some persons and not to others.

Sec. 09.25.115(i) directs a public agency other than a municipality to separately account for the fees received by the agency under sec. 09.25.115 and deposited in the general fund. Authorizes the legislature to use the annual estimated balance in the account to make appropriations to the agency to carry out the agency's activities.

Section 5 states that every person has a right to inspect a public record in the state, except in certain listed circumstances. Requires custodial public officers to permit the inspection and give a certified copy of the record on demand and payment of the required fee. States that the copy is evidence of the original. In the rest of the section, makes technical changes to conform the terminology to the use of "public records".

Section 6. Sec. 09.25.123(a) directs the TIC to supervise and adopt regulations for the implementation of AS 09.25.-110 - 09.25.140 by public agencies in the executive branch.

Sec. 09.25.123(b) directs the Legislative Council to supervise and adopt procedures for the implementation of AS 09.-25.110 - 09.25.140 by public agencies in the legislative branch.

Sec. 09.25.123(c) directs the administrative director of courts to supervise and adopt procedures for the implementation of AS 09.25.110 - 09.25.140 by public agencies in the judicial branch.

Sec. 09.25.123(d) requires that the regulations and procedures adopted under sec. 09.24.123 include procedures for appealing public agency action taken under AS 09.25.110 - 09.25.140.

Sec. 09.25.123(e) provides certain definitions for sec. 09.-24.123.

Sec. 09.25.124 provides a right of appeal from final administrative orders made by a public agency under AS 09.-25.110 - 09.25.140.

Section 7 authorizes a person to seek injunctive relief under AS 09.25.125 without exhausting the person's administrative remedies under AS 09.25.123 - 09.25.124.

Section 8 provides definitions for AS 09.25.100 - 09.25.220, including "electronic services and products", "public agency", and "public records". "Public agency" is defined to cover municipalities and the executive, legislative, and judicial branches of state government.

Section 9 requires each state agency to notify the state library of the creation of certain data, including automated data bases, and provide for their accessibility through the library, except in certain circumstances.

Section 10 makes a technical change to conform to other changes in the bill.

Section 11 authorizes a municipality to copyright software and to enforce its copyright rights.

Section 12 makes a technical change to conform to other changes in the bill.

Section 13 adds four new sections.

Sec. 44.99.020(a) requires a state agency that requests personal information directly from the subject of the information to give when the request is made to the individual a notice that provides certain listed information.

Sec. 44.99.020(b) describes how the agency may provide the notice required by sec. 44.99.020(a).

Sec. 44.99.020(c) exempts certain listed requests for information from the notice requirement of sec. 44.99.020(a).

Sec. 44.99.030(a) allows an individual to challenge the accuracy and completeness of personal information on the individual that is maintained by a state agency and that is subject to public disclosure.

Representative Kay Brown
Page 5
February 22, 1990

Sec. 44.99.030(b) states that an individual may challenge the accuracy or completeness of information under sec. 44.-99.030(a) by filing a written request to change the information. States what the request must contain.

Sec. 44.99.030(c) authorizes the state agency to request within a certain time verification of disputed personal information from the individual who made the request to change the information.

Sec. 44.99.030(d) requires the state agency, within a certain period of time, to review the request for change and either change the information or deny the request. Requires the agency to notify the individual of the change or denial and include certain information in the notification of denial.

Sec. 44.99.030(e) allows the individual whose request for change is denied to provide the agency with a statement providing the individual's reasons for disagreeing with the decision. Directs the agency to maintain the request for change and the statement in its records. Requires that the agency clearly note on all of the agency's records that contain the disputed information which portions are disputed. Clarifies how this is to be done if the record is in electronic form.

Sec. 44.99.030(f) exempts certain listed records and information from sec. 44.99.030.

Sec. 44.99.040 defines certain terms for the previous two sections. "Person" is defined to mean an individual. "State agency" is defined to cover the executive, judicial, and legislative branches of state government.

Sec. 44.99.050 authorizes a state agency to copyright software and to enforce its copyright rights. "State agency" is defined to cover the executive, legislative, and judicial branches of state government.

Section 14 states that requests for personal information made by a state agency on or after the effective date of the bill are covered by sec. 44.99.020.

TLB:pl.
WKP2/081



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Administration	BILL NUMBER HB405	SPONSOR Representative Kay Brown
SHORT TITLE OF BILL Public Access to Information			
DEPARTMENT POSITION We support the concept of public access, but have serious reservations about confidentiality of some of our records.			
PREPARED BY Beverly D. Reaume	DATE 02/22/90	COMMISSIONER'S SIGNATURE <i>Donna H. Wiley</i>	DATE 2-22-90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL ALL	CONSTITUENT GROUP(S) AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

ANALYSIS OF BILL/PROGRAM EFFECTS

See enclosed.

AMENDMENTS PROPOSED

See enclosed.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

ANALYSIS OF BILL/PROGRAM EFFECTS

The department's concerns are primarily confidentiality of data not yet analyzed, confidentiality of exact location of a specific fish and/or game resources, and confidentiality of individual management survey responses.

- Confidentiality of Data Not Yet Analyzed

Multi-million dollar fisheries and many other resource users depend upon a careful analysis of large amounts of data collected in many locations throughout the state. Each piece of this data resides on microcomputers in locations near where it is gathered. Any piece of this data taken out of context is meaningless and invalid for management use. The data in total provides a complete picture of the resource health, resource population, and potential resource use. Improper disclosure and use of a piece of this data by the public will jeopardize the department's ability to manage the resources prudently and could lead to lawsuits questioning the department's authority and responsibility in dealing with management and harvest of the resource.

- Confidentiality of Exact Location of a Specific Fish and/or Game Resource

Through technological advancement, the department is able to track and monitor the locations of certain big game and fish species. Access to this information by the public will have a negative effect upon the department's ability to protect the individual unit, the department's ability to track the individual unit, and the department's ability to manage the resource at large. For example, the department currently does not divulge the locations of radio collared bears in their denning sites. This bill will force us to provide this information since it is contained in a computerized database.

- Confidentiality of Individual Management Survey Responses

Much information collected by the department for use in resource management is collected with the understanding the individual survey responses will remain confidential. The department is usually able to get satisfactory and useful information only because the respondents know the responses will be kept confidential. This bill raises a doubt as to whether we will be able to continue collection of the necessary information needed to adequately manage the resources.

Amendment #7

To address these concerns we offer a proposed amendment to insert additional language under Title 16.05.815.

Sec. 16.05.815. Confidential nature of certain reports and records. (a) Except as provided in (b) of this section, records required by regulations of the department concerning the landings of fish, shellfish or fishery products, and annual statistical reports of buyers and processors required by regulation, records of the telemetry radio frequencies of monitored species, denning sites, location of fish and wildlife species, when that knowledge may be detrimental to the population, and uncorrected raw research data of the department are confidential and may not be released by the department except that the department may release

Item 4

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
PO BOX 0, JUNEAU, ALASKA 99811-1800

(907) 465-2600

January 22, 1990

POSITION PAPER

House Bill No. 405

"An act relating to public access to the information of the state"

Department Position

The Department supports the purposes of this bill. We are working in conjunction with the Department of Administration to fully determine its impacts.

We support the amendment of state law to allow for waiver of reproduction fees for public documents in certain cases. We believe that the cases should be spelled out in the statute. We receive many requests from non-profit organizations with very limited budgets. We support statutory language to allow us to provide copies to such groups without cost, within a reasonable limit.

We also support a statute change to ensure public access to information stored electronically. This policy must be crafted to ensure the security of computer systems. Allowing a member of the public on-line access to data files may only be allowed when the security of the underlying system can be ensured. Some computer systems are designed to allow this without security problems; others are not. Many systems allow open access and provide capability to change or destroy records once an initial password is entered. We cannot allow direct on-line access to our networked computer system and ensure the integrity of the underlying data. This is an issue that needs to be addressed in a comprehensive manner.

CSHB 405: "An Act relating to public access and changes to the information of public agencies; and relating to the copyrighting of software produced by or for public agencies."

You have asked the department to comment on the effects of HB 405 on the operations of the Division of Banking, Securities and Corporations. As a result of our review, we respectfully request that the division be exempted from the provisions of the bill.

The request for exemption is based on the fact that much of the division's activity is information management. The Corporations Section alone processes over 31,000 phone calls a year for information within the corporate files. It is fundamental to commerce in Alaska to be able to determine if a corporation is in good standing or a foreign corporation has a certificate of authority before contracts are signed or action in court is available. This type of daily operational function requires certified copies and, at times, historical file copies to determine corporate origin, e.g., corporate structure prior to mergers, etc.

The new Alaska Corporations Code, AS 10.06, effective July 1, 1989, sets out in Article 11 that fees may be set by regulation. In promulgating regulations, the total operations of the agency are kept in mind to meet the standards necessary to maintain a reliable information management system. Fees of the industry nationwide are also considered to try to establish some conformity with those coming into Alaska with their business.

Information distribution is an important function of the Securities Section's operation. The Securities Section of the division strives for public disclosure, and the registration files are open and made available to the public. The division initiates periodic news releases informing the public to check with us before they invest in ventures or with people unknown to them. The filing of Native proxies is an example of a source of public information for shareholders of Native corporations. This and other information is readily available. Research is done by those in need of the information. The Securities Section does not have staff available to do research without disenfranchising those who are trying to register.

The Banking Section of the division maintains only a minimal amount of public files. Most of the files of this section are held nonpublic by Alaska statute. Statistical reports of condition (financials) are maintained and copies are available. These reports are used for various indices throughout the nation. The division is unable to provide historical research because the Banking Section has no available clerk.

In information management, the division must take into consideration the cost of producing the availability of the information. Microfilming, microfilm readers and printers, computer systems and printers, copiers and related costs are all a function of the division to adequately disseminate information required to do business in Alaska. This is true in other states. Those who have need and use the information do so in the course of business and, as such, benefit directly by the service rendered. It is commonly expected in other states that these services pay the total cost of the agency.

Position Paper
CSHB 405
Page Two

The requirements of HB 405 in considering only the cost of copy or free time of review would adversely affect the information management of the division. The division has functioned responsively to the public's needs under the exempt provisions of 6 AAC 95.130(d).



Larry Mercutheff, Commissioner

Date: 2-21-90

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STATE OF ALASKA

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

February 14, 1990

The Honorable Kay Brown
Alaska State House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Brown:

Karen Crane appreciated the call from your staff assistant, Mary Core, concerning CSHB 405. Ms. Core said you would consider an exemption for the State Archives from the requirement to provide up to 10 hours of free service per requester per calendar month. (This issue affects CSHB 405 from page 2, line 19 to page 3, line 6.)

The State Archives works with a massive body of paper, microfilm, audio and video records, which, due to the nature of their organization, tend to be difficult to search. In addition, a number of these records are confidential and require extensive staff time to make them available for a requester. Some of the records are also fragile because of their age or format, so they require special handling by knowledgeable staff. In the event that records must be removed from the Archives building, such as for special copying services, a member of the Archives staff must accompany the records.

The State Archives recently developed a policy to cover charges for requests that require extensive staff assistance. The proposed charge is \$20.00 per hour plus any copying costs. Recently, the staff did a complex search for a patron that required 5.75 hours of staff time and copying of blueprints on a special machine. The total cost was \$175. The patron had asked a private firm in Juneau to quote a price to do the work for him at the Archives. The firm would have charged him \$1,000.

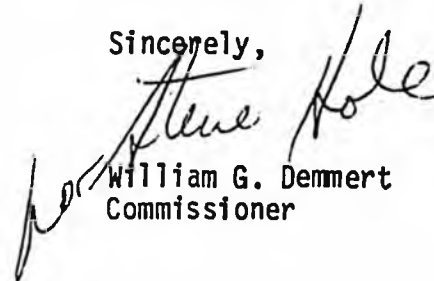
Most requests from the public can be handled in less than an hour and can be handled by the staff. However, the staff cannot respond to extensive requests in a timely manner. If the Archives is allowed to charge for these requests, it will be able to employ part time employees additional hours so work can be completed in a reasonable amount of time.

We appreciate your interest in this concern and would welcome an exemption from this part of the proposed bill. We do suspect that some other agencies may have difficulties similar to those of the State Archives, particularly those currently exempted in 6 AAC 95.130 (d). With the passage of CSHB 405 in its current form, these agencies would lose their exemptions.

CSHB 405
Page 2

If you have any questions, please contact Karen Crane or George Smith at the Division of State Libraries and Archives. Ms. Crane asked me to send you a copy of the enclosed article. It concerns another topic that the two of you discussed.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Hole", is written over the typed name of William G. Demmert.

William G. Demmert
Commissioner

by: George V. Smith
Deputy Director
State Library and Archives

Enclosure

ALASKA BUREAU OF VITAL STATISTICS
REVISION OF FEE SCHEDULE
EFFECTIVE AUGUST 1, 1989

The Alaska State Registrar of Vital Statistics under the authority of A.S. 18.50.330 and 7AAC 05.975 has adopted the following fee schedule to be effective August 1, 1989.

- \$7.00 - For each certified copy of a record of birth, death, fetal death, divorce or marriage.
 - \$7.00 - For each wallet size plastic birth card.
 - \$7.00 - For each search of a record for the first three years. Each year searched thereafter is \$1.00 per year. A statement of search will be issued where no record is found.
 - \$15.00 - For registration and certified copy of a delayed birth certificate.
 - \$15.00 - For preparation of a birth certificate after legitimation or adjudication of paternity, including one certified copy.
 - \$20.00 - For preparation and certified copy of a substitute birth certificate after adoption.
 - \$15.00 - For processing court-ordered legal name changes, and for amendments to correct information or add missing items to registered vital statistics records.
 - \$50.00 - Per hour, for processing approved special research requests.
- GOVERNMENT AGENCIES** - No phone requests will be honored. State, federal and local government agencies will receive free uncertified copies of records requested in writing. For certified copies, the regular fee will be charged.
- INSUFFICIENT INFORMATION** - If the information supplied by the applicant is not sufficient to locate the record, the request will be returned to the applicant for more information.
- UNDERPAYMENT** - Requests with insufficient fees will be returned to the applicant.
- CERTIFICATE FOR PASSPORT** - Telephone requests will not be honored unless in conjunction with credit card orders through Vital Chek Network (see below). All other requests must be in writing, accompanied by the proper fee.
- VITAL CHEK NETWORK** - Vital records may now be purchased with VISA or MASTERCARD credit cards. There is a service charge of \$10.00 for the use of VITAL CHEK in addition to the regular fee for each record. Express Mail handling is available for the additional charge of \$9.75. Please call the bureau at (907) 465-3392 if you wish to use the Vital Chek service.

BUREAU OF VITAL STATISTICS
P.O. BOX H
JUNEAU, ALASKA 99811-0675

Kay Brown

Alaska State Legislature House of Representatives

November 27, 1989

Rep. Red Boucher, Chairman
House State Affairs Committee
Alaska State Legislature
3111 C Street
Anchorage, AK 99503

Dear Rep. Boucher,

Since I was cut of town when the House State Affairs Committee met recently to discuss state information services, I wanted to share some of my thoughts in writing.

As you know, when the Legislature is not in session I work as an analyst for PlanGraphics, Inc., a Kentucky-based firm that specializes in the design and implementation of geographic information systems (GIS). In that context I have had the opportunity to do research and become familiar with public access and computer technology issues. While the discussion below mostly addresses issues affecting GIS development, these concepts also are applicable to other information systems.

Public access to government information is a fundamental right that operates to check and balance the actions of elected and appointed officials. The courts have established a clear connection between the "right to know" and governmental accountability. When tax dollars are spent, or government takes action, citizens can review the information on which the decision was based. The right to know the basis for government's actions and decisions provides a deterrent to abuse of government authority, but this general concept does not address a myriad of emerging information access issues.

In the context of GIS development, I have become convinced that the public interest will be best served by implementing the concept of "information utilitarianism" -- the goal of which is to provide the greatest access to information for the greatest number.

The technical and institutional issues imposed on a GIS custodial agency are complex. Regulations (6 AAC 95) specify access procedures applicable to custodians of government records, but Alaska law does not address the expanded roles of the agencies, made possible by GIS and other technological improvements, as information disseminators and integrators.

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During Session:
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The evolution of GIS into an "information utility" that provides information products and services for standard rates raises significant policy issues concerning the economics of information and expanded government authority to provide information services. This critical debate likely will result in division of control over the "value of information," as well as the analytical and integration capacities of the technology, among various contenders. Government will remain the collector of information, controlling the updates to the most extensive and useful data bases, and thus is the initial "owner" of the value of a significant portion of source information.

The information processing capabilities of GIS make it reasonable to anticipate an unprecedented number and variety of access requests coming from sister agencies, commercial vendors, and the general public as the system applications expand and outsiders become aware of the resource. Most multilayered GISs will have the capacity and ability to produce a much more complex set of information and information products than was contemplated when the public records policies were set. Open records laws deal quite adequately with the three or four requests a year made to a typical government agency, but have a different impact when applied to several hundred requests a month, including requests such as on-line access and complete data base updates.

The utility of GIS for managing government's information is such that outside requests can predictably reach a level that could severely limit any control over staff time and the agency's budget. Another concern is the ever increasing cost to the state to meet the rising costs of increasing access.

Literal application of the current regulations causes more potential restriction of information access than it promotes in the GIS environment. Rules that adequately protect the public's right to know in the world of paper records can prove counterproductive in the world of information management through computer technology. The map can now be managed as a database and not as a picture. If a map was used to make a leasing decision, a copy of the map should be available under the open records law. But is there any public policy basis for providing access relatively free for the commercial use of a map if it did not exist before the request? Information in a GIS data base can be analyzed and manipulated in an almost infinite number of ways to produce new information that did not previously exist.

Based on two basic and quite diverse policy approaches visible today in different jurisdictions, policy makers are

trying to meet the requirements of the applicable state open records law. An agency faced with dealing with open record requests at its own expense (in terms of management of staff time, capital investment in the system, and especially operation and maintenance costs) has little incentive to operate as a utilitarian information processor.

In the absence of cost recovery options, GIS managers may perceive it to be in their interests to refuse as many requests as possible by distinguishing the requested material from "records" or inventing some other basis to deny access. These might include, "...the information is not final, the information requires proprietary software, the information is not available in the form requested, the request is not specific enough to identify the record," and so on.

Most GIS managers probably would like to grant broader access to information, but they must be able to afford the exercise. The more successful the agency is in limiting access, the less expense that must be covered by increased appropriations from the legislature.

The most easily defended policy at this time is to 1) grant all requests for traditional text material in printout form, 2) deliver a copy of the database in the form of a tape when asked, 3) absorb the real costs of the exercise, and 4) turn down all requests that don't fit that mold.

If the access request is analyzed exclusively under the open records law, and an exception category fits well enough to refuse access, the exception will not allow for subsequent sale or distribution of the particular information or different information to satisfy a similar future request. If the access request is met merely because no open record exception applies, then no subsequent control is retained for similar requests in the future, no matter how burdensome or expensive they might prove to be.

For two kinds of financial reasons, GIS custodians are choosing to pursue an active policy of providing and selling information. The first reason is to obtain reasonable purse-string control over access necessary to limit frivolous requests and to avoid the unpredictable expense of meeting the potential demand. The second reason is to establish a method for offsetting the costs of establishing, operating, and maintaining the system.

Under present Alaska regulations it is not possible for an agency to charge fees for GIS products and services beyond the cost of searching and copying.

In order to move toward the concept of information utilitarianism, and promote broad public access to

information kept by state agencies, I believe we should amend the statute to make a distinction between "records" and "products and services." This solution would uphold the underlying principles of the Freedom of Information Act to keep government accountable for its actions and expenditures while simultaneously promoting utilitarian access to state information.

This strategy envisions proprietary government action to make information *products and services* available for a price calculated to produce a balance between revenues and expenditures. Information that is used to form public policy would continue to be treated as a *record* and made available to any member of the public for a nominal cost.

A reasonable distinction between information that constitutes a *record*, and information that constitutes a *product, publication, custom report, custom map, or a service*, will enable an agency to enhance access for the general public and recover a portion of the system's cost from commercial and other large users. This will help maintain the long-term viability of the state's GIS systems.

The system of public access I envision would establish user fees for various levels of access to an agency GIS. Users could be offered "access packages," each sufficient to produce a range of products or services within the full range of system capabilities. The GIS agency could offer access to the system at one of several functional levels, within which any process or product can be located. Basically, functionality equates to software capability, so it is access to software that distinguishes the levels in this proposed access scheme. For example, functionality levels could include:

- Plotting, printing, and reproduction of standard products only;
- All above, plus alphanumeric query and printing capability;
- All above, plus graphic query and plotting capability;
- All above, plus nongraphic data input and analysis capability; and
- All above, plus graphic data input and analysis capability.

Again, any information used to make a decision or form public policy would be defined as a *record* and would continue to be available to any member of the public for the nominal cost of searching and copying.

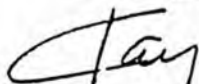
Thank you for the opportunity to comment. I am working on legislation on this topic and other related issues, including privacy concerns, that I plan to introduce next

Rep. Red Boucher

5

session. I look forward to discussing this with the State
Affairs Committee.

Sincerely,

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

Rep. Kay Brown

Policies for the Electronic Information Age

Now that computers have taken over, states need to update the rules for managing their information resources.

Edwin Levine

Information — the lifeblood of government — is getting more complicated to manage.

Like everyone else, states have become totally dependent on computers and software, networks and telephones, for stor-

Edwin Levine is staff director of the Florida Legislature's Joint Committee on Information Technology Resources.

ing, sorting and providing access to their information. Managing this electronic data and the technological structure that supports it will become the challenge of the '90s.

Statutes dealing with government information and the public's right to know have become outdated. Lawmakers are finding themselves embroiled in complex debates over information dissemination

and the costs of access to computerized government information, copyright, computer security, optical storage and computer privacy.

The need for redefinition is based on the increased value of the information being produced, created and stored by government today. It was valuable as "marks on paper," but the costs of finding, sorting, combining and analyzing paper files were prohibitively high. Computerizing the information has reduced costs, improved the ease of use and provided capabilities for information management that were impractical with paper records.

Today it is possible to use technology to manage information, rather than having to manage the technology itself. For state legislatures this is a critical distinction. If we separate the information from the technology that stores and processes it, the underlying policy issues are much clearer. These issues are the meat and potatoes of state legislatures: How will scarce resources be allocated? What are the equity concerns? What is the public interest?

Information is an asset. But does the information belong to the individual who provided it to the motor vehicle registration bureau? Or to the bureau, which wants to sell it to a company that markets mailing lists? Or is it now "public information," which must be provided to any person who asks for it, including the child support enforcement unit that wants to find recalcitrant parents?

Legislative responses to these questions are eclectic. Some states restrict the release of "personally identifiable information," while others limit only distribution of "confidential" information. At the federal level, Congress passed the Computer Matching and Privacy Protection



Act last October. It establishes stringent controls on matching computerized information about individuals.

Studying the problems raised by the growth of computerized government, the Florida Legislature's Joint Committee on Information Technology Resources identified four major groups of issues that lawmakers are going to have to deal with — control of information, its dissemination, its security and its preservation.

One of the problems of controlling information is the question of privacy, allowing people to know what personal information is being collected about them, why it was collected, where it came from, how it will be used, who has access to it. The common concern is the individual's lack of control over information about himself once it is computerized.

The second set of issues raises fundamental questions about government's responsibility for providing access to public information. It brings up such questions as whether government can copyright its information, whether software written by government employees should be sold, who should be allowed and who prevented from disseminating government information, whether government will provide only what the private sector won't, whether information will be available to everyone or only to those with a computer, whether it's fair to provide a computer printout to some and a diskette or tape to others.

The debate over who will profit from the use of information is fierce. Many public agencies would like to offset the tax burden with profits from their investment, but should taxpayers have to pay again for what they have already funded? Minnesota allows its counties to copyright and sell their software. Is it in the public interest to have government compete with private business? Should private software companies be taxed if the receipts are to be used to fund the marketing of software developed by public employees?

Is it fair for government to charge for the examination of its actions? Is it appropriate to require that examination of the public record be based on fees or the ability to pay, or should citizens have free access to this material?

The third and fourth sets of issues that legislatures must address are those of security and preservation. Security is vital to ensure that data is neither altered nor destroyed and that confidential information is not released. Other security issues have to do with disaster recovery, access controls, security plans and protection of functions such as electronic voting systems where the integrity of the process must receive extraordinary attention.

Preservation problems have to do with saving and managing public records that are stored on non-paper media such as magnetic tape or optical disk. Questions that have to be answered include what is the status of non-paper records as evidence, whether a document is a copy or the original, how to manage access and destruction of computer records and the software used to search them, and how to determine what records to preserve given the glut of useless information that can now be cheaply stored electronically. Then there is new technology such as electronic mail that never creates a paper document at all.

These issues have already created difficulties for legislatures. In Texas an optical storage law has been challenged because it allowed for the destruction of the original paper records and authorized the use of technology for which there are no national standards.

New York has completed a plan to manage and preserve electronic records. The Uniform Commercial Code is being reviewed to determine how electronic records will affect current law.

State legislatures have dealt with broad societal changes in the past, but the information age is speeding toward us a lot faster than anything we've ever dealt with before. The adoption of information technology may be virtually complete by the turn of the century. Will lawmakers have enough time to determine the public interest in these issues?

The treatment of government's own information will be most troublesome. Who will control this information, who will disseminate it, how will it be secured and how will it be preserved? The information age will force every legislature to re-examine old and settled issues from a new perspective.



Which manufacturer outfitted the 1987 America's Cup Winner with a secure communications system?

Motorola.

As soon as the crew of the Stars and Stripes Yacht—the winner of the 1987 Americas Cup Race—found out that a competing yacht was monitoring their radio communications, they looked towards the Motorola SECURENET System as the solution. They knew it was the best way to make sure that their strategic on-board communications would not be overheard.

It really should come as no surprise that Motorola was the choice of the winning Stars and Stripes crew. After all, we've been providing secure communications for everything from yacht races to undercover operations for over a decade. In fact, Motorola SECURENET 2-way radios are used by public safety agencies coast to coast.

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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

April 20, 1989

MEMORANDUM

TO: Representative Kay Brown

FROM: Maria Gladziszewski *M. Gladziszewski*
Legislative Analyst

RE: The Impacts of Technology on Public Access to Information, Computer Crimes and Employee Surveillance
Research Request 89.268

You asked us to conduct research on several aspects of advancing information technology. Specifically, you were interested in three areas: 1) public access to information, 2) computer crime, and 3) employee monitoring. I will discuss each area in detail after the following brief summary of findings.

SUMMARY

- All fifty states operate under Freedom of Information (FOI) provisions, either from state constitutional or statutory authority. The federal Freedom of Information Act (FOIA), passed in 1966, established for the first time a statutory right of access to federal government information.
- Federal and state laws regarding public access to information were written with paper records in mind, and most observers have concluded that current laws do not adequately address information dissemination in the computer age.
- The director of the National Center for Computer Crime Data stated that computer crime legislation needs constant revision to outpace new technologies. Legislation must prohibit alteration, damage, and destruction of data, as well as disruption and denial of services.
- Dean Guaneli, assistant attorney general, knows of no cases of computer crime prosecuted in Alaska. Several sections in the criminal statute could be used to prosecute unauthorized access to computers. Mr. Guaneli stated that having all sections dealing with potential computer crimes in one place in the statutes would be useful.

Representative Brown
April 20, 1989
Page 2

- Because of the increased number of computers in the workplace and the resultant increased ability to monitor employees, electronic monitoring has recently become a topic of public policy debate.
- Intrusive monitoring can conflict with traditional expectations of what is fair on the job. Monitoring without warning can make employees feel like they are being spied upon and may violate personal privacy of both employees and customers.
- Electronic monitoring is a topic that especially affects women and minorities because they comprise the majority of the clerical work force likely to be monitored (routine computer programmers, word processing clerks, telephone operators, airline reservation agents, etc.)

PUBLIC ACCESS/FREEDOM OF INFORMATION

You requested information relating to rights of the public to access governmental information and mentioned concerns about invasion of privacy. You asked that the public access research attempt to 1) define "public access," 2) determine what other states are doing regarding public access to information and 3) determine the status of current Alaska laws in this area. A brief review of federal and state legislation on access to information and privacy issues is offered below as an attempt at defining "public access." Also included is a discussion of access to information in relation to computerized databases.

"Public Access" to Information

Information has long been recognized as playing an essential role in a democratic political system. Rapid advances in information technology have raised new economic and policy issues to be addressed by Congress, the courts, and state legislatures. The technology makes it possible for agencies to acquire information electronically (via magnetic tape, cassettes, disks, optical disks, or transmission over telephone links) and to release information electronically (via the same media and by satellite transmission). The new technologies can improve public access to information. They can also, however, be very costly and can threaten the position of established electronic information suppliers. Additional questions arise depending upon whether one considers access obligations under freedom of information laws or whether one considers more active information dissemination initiatives (through some form of electronic publishing). "Public" access to information released electronically really means access by a relatively small portion of the population with access to microcomputers. Until every citizen has a microcomputer, the concept of "public" availability really means "direct availability to certain technologically sophisticated constituencies, such as investors, inventors and

patent attorneys, tariff filers or medical researchers, or indirect availability to members of the general public using agency public reference rooms or public libraries."¹

Federal Legislation Relating to Access to Information

Public access to information held by federal agencies is addressed in three federal acts.² The Administrative Procedure Act (APA) of 1946 requires agencies to publish information about agency procedures and rules in the Federal Register. The APA was "drawn upon the theory that administrative operations and procedures are public property which the general public, rather than a few specialists or lobbyists, is entitled to know..."³

The Freedom of Information Act (FOIA) of 1966 revised the public information disclosure section of the APA. The APA generally had been recognized as falling short of its disclosure goals and "came to be looked upon as more a withholding statute than a disclosure statute."⁴ The FOIA established for the first time a statutory right of access to federal government information. Underlying principles of the FOIA, however, are inherent to the democratic ideal: "The basic purpose of FOIA is to ensure that an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed."⁵ In an effort to clarify and extend the disclosure requirements of the FOIA, and also as a reaction to the abuses of the Watergate era, the FOIA was substantially amended in 1974. These amendments significantly narrowed the ability of

¹Henry H. Perritt, Jr., Electronic Acquisition and Release of Federal Agency Information, (The Administrative Conference of the United States, 1988), p. 18.

²The Administrative Procedure Act of 1946 (5 USC §1002), the Freedom of Information Act of 1966 (5 USC §552), and the Privacy Act of 1974 (5 USC §552a).

³Lotte E. Feinberg, "Managing the Freedom of Information Act and Federal Information Policy," Public Administration Review, November/December 1986, p. 616.

⁴Guidebook to the Freedom of Information and Privacy Acts, pp. 1-10.

⁵NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214, 242 (1978) cited in Guidebook to the Freedom of Information and Privacy Acts, compiled and edited by Justin D. Franklin and Robert F. Bouchard (1986).

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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April 20, 1989

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agencies to withhold records.⁶ The Act contains nine exemptions which protect the following types of records from access, disclosure, or dissemination: 1) national security, 2) agency personnel matters, 3) matters specifically exempted from access by another statute, 4) commercial secrets, 5) agency deliberations, 6) private personal matters, 7) law enforcement investigations, 8) financial institution investigations and 9) geological surveys. The Federal FOIA applies only to "records" maintained by "agencies" of the Executive Branch of the federal government (including the Executive Office of the President and independent regulatory agencies). The FOIA does not apply to records maintained by the courts, by Congress, or by state governments.

The Privacy Act of 1974 responded to concerns about government use and possible misuse of personal information. Although the government had gathered information about citizens for decades, public concern was heightened at the time for several reasons. Among these were the abuses of Watergate (illegal wiretapping and surveillance of private citizens by federal agencies) and the technological capability to collect vast amounts of information on individuals. While information had previously been stored in manual files, advances in technology made it easier than ever for the government to compile, retrieve, analyze and disseminate data.

The Privacy Act states that "any citizen of the United States or an alien lawfully admitted for permanent residence" can use the Act and is entitled to its protection. The scope is more narrow than that of the Federal Freedom of Information Act, which allows use by "any person." The Privacy Act applies to records in a "system of records" and can be documents, regardless of physical form, which contain an "identifying particular" that could be used to identify someone (social security number, draft registration number, fingerprint, etc.) The Privacy Act adopts the definition of "agency" in the FOIA and also does not apply to records compiled by Congress, by the courts, or by state governments.

The Freedom of Information Act does contain provisions addressing potential conflicts between privacy interests and pro-disclosure policies. The FOIA attempts to resolve the conflict between public access to agency records and individual privacy by permitting agencies to delete private or proprietary information from records made available to the public. The Act states that "[a]ny reasonable segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt..."

⁶In 1976 Congress again narrowed what could be withheld from disclosure and in 1978 made some technical changes to the FOIA. Congressional hearings held in 1981 demonstrated that, after several years of administrative experience with the FOIA, the Act was "in need of both substantive and procedural reform." The most recent FOIA amendments passed through Congress in 1986.

States' Action Relating to Freedom of Information

All fifty states operate under Freedom of Information provisions, either from state constitutional or statutory authority. According to the Council of State Governments (CSG), some states operate under restrictive open records provisions that classify as public records only those documents required to be kept by law or those made pursuant to law.⁷ Less restrictive laws usually provide that "all records in the possession of a public agency" are public unless otherwise specified in statute or regulation. Thirty-six states, including Alaska, have laws of this type.⁸

Attachment B, a chart prepared by the National Conference of State Legislators (NCSL), lists states with FOIAs which specifically cover access to public records regardless of the physical characteristics of the records. Thirty-one states have laws that specifically include computerized public records.

All states provide exemptions to open records laws and the same categories of exemptions can be found in all states. Exemptions to state open records laws are of six types: 1) information classified as confidential by state law; 2) law enforcement and investigatory information (e.g., criminal history records, child abuse records); 3) trade secrets and commercial information, 4) preliminary department memoranda (e.g., working papers and correspondence of the governor and legislators, intra-agency memorandums); 5) personal privacy information; and 6) information relating to litigation against a public body (e.g., legislative research documents, bill drafting services).⁹ Table 2 lists information classified as confidential in Alaska statute.

In March 1989, The Reporters Committee for Freedom of the Press, a nonprofit organization based in Washington, D.C., completed fifty-one guides to open meetings and open records laws entitled Tapping Officials' Secrets. The guides include analyses of statutes, exemptions, and other legal limitations. The open records chapter in each guide includes a section addressing the law on specific categories of records (e.g., bank records, hospital records, public utility records, etc.) The guides explain the foundations for state open government in common law, in the first state laws after independence, and in territorial laws in western states. A compendium of guides to all states is available for \$200, or they are available individually for \$5 per state. A copy of the guide for Alaska has been requested and will be forwarded to your office upon receipt.

⁷See Attachment A, a memorandum issued in December 1988 by the Council of State Governments, for more information on state public record laws.

⁸North Dakota Legislative Council, Open Records Laws, October 1986, p. 8, as cited in CSG Backgrounder No. 128801 (Attachment A).

⁹Braverman and Heppler, "A Practical Review of State Open Records Laws," 49 Geo. Wash. Law Rev., 1981, p. 739.

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Access to Information in Alaska

The Alaska legislature has not passed legislation entitled Alaska's "Freedom of Information Act." Rather than one "open records" or "freedgm of informa-tion" section in statute, provisions relating to access to information are found in many sections of Alaska statutes. The definition of "pubiic record" was not added to statute until 1978.¹⁰ The sections considered to be Alaska's FOIA, were passed by the legislature in 1962.¹¹ These provisions pertaining to public records are relatively general as compared with some states' provisions. Whereas some states have passed specific laws and list many exceptions to open records provisions in their FOI laws, the principal part of Alaska's FOI statute lists as confidential only "(1) records of vital statistics and adoption proceedings; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by federal law or regulation or by state law..." The sections of the Alaska Administrative Code regarding public information became effective in 1982.

We have prepared Tables 1, 2, 3, and 4 in an effort to determine the status of current Alaska laws relating to public access. Table 1 lists statutes specifying records as public, Table 2 lists statutes specifying records as confidential, Table 3 lists other statutes relating to public access to information, and Table 4 lists the titles of interpretations of Alaska law issued by the Office of the Attorney General.

According to Assistant Attorney General James L. Baldwin, determining which records are confidential and which are public has not been predictable: "we buy a lawsuit every time we deal with it." Mr. Baldwin also stated that because of the "skeletal" nature of Alaska's public records statutes, difficulty arises when attempting to sort out what information is exempt from public disclosure.

¹⁰AS 11.81.900.

¹¹See Attachment C, AS 9.25.100-125 and 6 AAC 95, Alaska statutes and regulations regarding public information.

TABLE 1
ALASKA STATUTES MANDATING A RECORD AS PUBLIC

09.25.110	"Unless specifically provided otherwise the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public..." (Section 3.22 ch 101 SLA 1962)
09.25.120	"Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except (1) records of vital statistics and adoption proceedings...; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by federal law or regulation or by state law..." (Section 3.23 ch 101 SLA 1962)
11.81.900	"'Public record' means a document, paper, book, letter, drawing, map, plat, photo, photographic file, motion picture, film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card or other document of any other material, regardless of physical form or characteristic, developed or received under law...and preserved...by any agency, municipality, or any body subject to the open meeting provision of AS 44.62.310, as evidence of the...activities of the state or municipality or because of the informational value in it; it also includes staff manuals and instructions to staff that affect the public...." (Section 10 ch 166 SLA 1978)

STATUTE

TYPE OF RECORD

34.45.310	Abandoned property, lists of
24.45.370	Abandoned property, record of proceeds from the sale of
44.62.500	Administrative adjudication, copies of proposed decisions
18.26.040	Alaska Medical Facility Authority, minutes of board meetings
37.13.110	Alaska Permanent Fund, conflict of interest of board members of
37.13.200	Alaska Permanent Fund, information in the possession of, with exceptions
42.06.260	Alaska Public Utilities Commission, applications for certificates of public convenience and necessity
42.05.671	Alaska Public Utilities Commission, records in the possession of, with exceptions
42.06.445	Alaska Public Utilities Commission, records in the possession of, with exceptions
42.06.210	Alaska Public Utilities Commission, reports regarding oil and gas pipeline facilities
37.12.120	Alaska Resources Corporation, information in the possession of, with exceptions
08.13.050	Barbers and hairdressers, licensing records of
39.52.220	Boards and Commissions members, declaration of potential ethics violations
45.55.250	Broker-dealers/investment advisors, applications for registration and revocation orders
06.20.190	Business licensees, annual report
08.18.021	Construction contractors, applications for registration
08.18.081	Construction contractors, claims against
10.15.240	Cooperative corporations, name of each party to the contract
23.20.105	Employing units, records of, containing information prescribed by the Department of Labor
46.15.020	Environmental conservation, applications for permits and other documents in the Commissioner's office
39.52.210	Executive branch officials, declaration of potential ethics violations
39.52.130	Executive branch officials, some gifts received by, with a value of \$50 or more
16.10.410	Fish hatcheries, public meetings regarding issuance of licenses for
16.10.290	Fish processor/primary buyer, records of suits against
46.03.311	Hazardous waste, permit applications/reports of persons who generate, with exceptions
23.05.020	Labor, records of all proceedings of the Department of
24.05.135	Legislative floor sessions
24.23.060	Legislative professional service contracts
24.27.120	Legislative council, reports released by
24.10.120	Legislators, report of compensation to
24.60.100	Legislators, disclosure of representation for compensation by
24.60.050	Legislators, records of receipt of state loans or participation in state programs by, with exceptions
24.60.110	Legislators, conflict of interest
24.60.080	Legislators, gifts received by, with a value of \$100 or more
24.60.070	Legislators/public officials, some close economic associations of
44.47.571	Local boundary commission, minutes of all meetings and hearings
25.05.191	Marriage license docket
40.05.010-030	Mining claims, some information on the status of
45.30.018	Mobile homes, attorney general actions regarding claims against manufacturers of
08.71.055	Opticians, names of applicants and licensees
06.40.100	Premium finance licensees, annual report
36.30.530	Procurement, information regarding state contracts, "except as otherwise provided by state law"
39.35.040	Public Employees Retirement Board, record of proceedings of
39.45.025	Public Employees Retirement Board, record of proceedings of, deferred compensation
39.30.155	Public Employees Retirement Board, record of proceedings of, supplemental benefits
40.21.010-150	Public records, management and preservation of
40.17.010	Real property
43.05.010	Revenue, Commissioner of, record of each order, process and certificate issued
27.21.100	Surface coal mining, applications for permits for
45.50.130	Trademarks registered
14.40.160	University of Alaska Board of Regents, board meeting records

TABLE 2
ALASKA STATUTES WHICH MANDATE A RECORD AS CONFIDENTIAL

STATUTE	TYPE OF RECORD
PROPRIETARY INFORMATION (TRADE SECRETS, MARKETING INFORMATION, ETC.)	
46.03.180	Air contaminant sources, production figures or techniques of an operator of
44.88.340	Alaska Industrial Development Authority, commercially sensitive information of exporters obtained by
37.13.200	Alaska Permanent Fund, information which discloses the particulars of the business or affairs of a private enterprise
42.06.445	Alaska Public Utilities Commission, certain information regarding pipeline carriers
42.05.671	Alaska Public Utilities Commission, some records can be deemed privileged records, a person may make written objection to disclosure
38.06.060	Alaska Royalty Oil and Gas Development Authority, records relating to business or marketing information of producers
43.80.065	Commercial fish processors, information from reports used to identify individuals
44.81.260	Commercial Fishing and Agriculture Bank, information regarding the business records of, with exceptions
16.05.815	Commercial fishing, records which identify individual fishermen, buyers or processors
10.06.820	Corporations, information obtained by DCED from interrogatories
46.03.020	Environmental compliance, secret processes or methods of manufacture discovered by DEC during investigations regarding
08.54.230	Guided hunts, records maintained by DCED regarding
46.03.311	Hazardous waste, information that would divulge products or processes entitled to protection as trade secrets
27.20.041	Mine operation, all reports/information required to be filed regarding
27.25.090	Mineral assays, information pertaining to the results of, (for 2 years)
27.29.030	Mining loans, information supplied by applicants for
18.60.099	Occupational safety inspections, information that may reveal trade secrets obtained by the Department of Labor during
38.05.036	Oil and gas contracts, some information made available to Revenue during audits of royalty and net profit payments
38.05.035	Oil and gas leasing, some information received by DNR regarding
31.05.035	Oil and gas, reports filed by holders of permits to drill, with exceptions
46.04.025	Oil pollution control, proprietary technical information regarding
36.30.360	Procurement contracts, some information furnished by a bidder for
36.30.040	Procurement contracts, technical data and trade secrets submitted by bidders for
36.60.230	Procurement contracts, trade secrets and other proprietary information contained in proposal documents for
36.30.140	Procurement contracts, trade secrets and other proprietary information disclosed during bidding for
37.17.090	Science and Technology Foundation grant recipients, some information generated by (if agreed upon before grant is issued)
27.21.200	Surface coal mining exploration permit, information that is a trade secret or privileged competitive right of an applicant for
27.21.100	Surface coal mining, certain information relating to the competitive rights of a permit applicant
REGARDING COMMERCE	
37.12.120	Alaska Resources Corporation, information which discloses the particulars of the business or affairs of a private enterprise
06.05.175	Bank records pertaining to depositors and customers, with exceptions
08.24.250	Collection agencies, some reports filed by
21.27.350	Insurance agents, brokers, and adjusters, records in the possession of the Division of Transactions of
21.36.400	Insurance claim investigations, information received by the Division of Insurance regarding
21.22.120	Insurance holding companies, examinations of
21.39.120	Insurance rating organizations, examinations of, until approved by the director of insurance
36.10.190	Public contracts, information regarding specific employees of holders of
06.30.120	Savings and loan records, with exceptions
06.30.655	Savings and Loans, information obtained by DCED regarding
21.34.090	Surplus lines insurance, records of examinations of
21.34.080	Surplus lines insurance, report submitted to the Director regarding
43.19.010	Tax compacts, information obtained during audits of multistate
43.05.230	Tax returns, particulars set out or disclosed in, with exceptions
09.25.100	Taxation, information which discloses the particulars of the business or affairs of a taxpayer
44.33.020	Tourism-related businesses, information obtained by DCED that discloses the particulars of an individual business

TABLE 2 (Continued)

ALASKA STATUTES WHICH MANDATE A RECORD AS CONFIDENTIAL

STATUTE TYPE OF RECORD

LAW ENFORCEMENT AND INVESTIGATORY INFORMATION

47.17.040 Child protection, investigation reports and reports of harm
 12.62.015 Criminal justice information
 28.35.032 Driving while intoxicated, information supplied to the court system by providers of treatment programs for persons convicted of
 28.35.030 Driving while intoxicated, information supplied to the court system by providers of treatment programs for persons convicted of
 47.37.170 Intoxicated persons, record of protective custody for
 33.16.170 Parole, preparole reports and other information obtained by the parole board
 33.20.211 Prisoners, certain documents regarding

REGARDING PUBLIC EMPLOYEES

22.30.011 Judicial conduct commission, private reprimand of a judge by
 22.30.060 Judicial conduct commission, proceedings of
 24.60.160 Legislative ethics committee, advisory opinions of
 24.60.170 Legislative ethics committee, investigations of complaints submitted to
 39.25.080 Personnel records of state employees
 39.52.340 Public employees, information obtained during ethics investigations of, while on-going
 39.52.320 Public employee, attorney general's report declaring no probable cause to believe an ethical violation was committed by
 39.52.240 Public employee, request for advice of the attorney general regarding an ethics violation of
 39.52.260 Public employee, supervisor's report of a potential violation by, unless formal proceedings are initiated
 37.10.071 Public fund investment records, if records contain information that discloses the particulars of the business or affairs of a person
 09.25.150 Public officials or reporters, sources of information obtained in duty as

REGARDING THE LEGISLATURE

24.20.301 Legislative budget and audit committee, reports and records of, until released
 24.60.050 Legislative budget and audit division, report to the committee prepared by, until released
 24.20.100 Legislators, research and bill drafting services for
 24.55.160 Ombudsman investigations, identities of complainants or witnesses

TABLE 2 (Continued)

ALASKA STATUTES WHICH MANDATE A RECORD AS CONFIDENTIAL

STATUTE	TYPE OF RECORD
REGARDING HEALTH AND SOCIAL SERVICES	
25.23.150	Adoption, all papers and records pertaining to, unless the court and all interested parties consent
47.37.210	Alcoholics/intoxicated persons, records of treatment facilities for
08.95.900	Clinical social workers, information about clients of
18.20.090	Hospital, information received by DHSS regarding an individual or a
09.25.120	Medical
18.23.030	Medical review organizations, all data/records, with exceptions
47.30.845	Mentally ill patients, information obtained in the course of evaluation, examination or treatment of
47.30.590	Mentally ill persons, information obtained by DHSS regarding
47.30.840	Mentally ill persons, photographs taken of
44.21.235	Older Alaskans Commission, records obtained by the office of the long-term care ombudsman
18.05.046	Persons with impairments, registry maintained by DHSS of
17.30.155	Pharmacy board, medical practitioners not required to furnish names of patients or research subjects to
08.86.200	Psychologists, information about clients of
47.05.020	Public assistance, information concerning persons applying for or receiving assistance
09.25.120	Public health
18.23.010	Reviews of health care services, physician-patient confidentiality cannot be used to withhold info during
47.10.340	Runaway minors, records of licensed programs for
47.35.060	Social service institutions, records regarding individuals placed for care in
23.15.190	Vocational rehabilitation, information concerning persons applying for or receiving
OTHER	
18.60.087	Accident and health hazards, comments and names of employees reporting
08.48.071	Architects, engineers and land surveyors, some records of the Board of Registration of
18.80.220	Civil rights, data on age, sex and race required to administer laws regarding
13.26.013	Decedents estates, guardianships and trusts, court records of proceedings regarding
13.26.109	Decedents estates, guardianships and trusts, statements made by respondents during the course of examinations of
47.24.050	Elderly, investigative reports and reports of harm received by DHSS regarding
09.25.120	Juveniles
09.25.140	Library, personal identifying information of people who have used library materials
14.43.910	Loan applications for postsecondary education
28.15.151	Motor vehicles, some information maintained by the Department of
18.60.475	Radiation sources, data obtained as a result of registration or investigation of
45.50.521	Unfair trade practices/consumer protection, records of an attorney general investigation regarding
09.25.120	Vital statistics, records of birth, death, marriage, divorce, adoption and related data, with exceptions
13.11.315	Wills deposited with a superior court for safekeeping
23.20.110	Workers' compensation, information obtained by the Department of Labor

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