

**ALASKA LEGISLATURE**  
**HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994** **1179**

253

4-19-94

Stephanie -

Attached is the final  
for CSSB 213 (Fin)  
with an advisory memo  
from the drafter. I have  
highlighted the amend-  
ments within the bill.  
Will hold this final  
pending approval for  
release by you.

Kathy  
2018

*Withdrawn*



# Anchorage Telephone Utility

Executive Offices

SENATE FINANCE *Withdrawn*  
COMMITTEE

FOR IMMEDIATE RELEASE

Amendment Number: 3

Bill Number: SB 213

Sponsor: \_\_\_\_\_ Date: 4/16/94

Logged In By: (RM)

CONTACT: Marnie Brennan, Director of Communications

PHONE: 564-1681

DATE: April 15, 1994

## ATU BLASTS GCI FOR LEGISLATIVE ATTEMPT TO THWART COMPETITION

ATU general manager Jim Morrison today described as "corporate greed" an attempt by GCI to change state law to prevent ATU from competing in the long-distance telephone business. Morrison said a legislative amendment proposed by GCI could have the effect of preventing all municipally-owned utilities in the state from borrowing money -- with potentially disastrous consequences on their ability to provide service.

"GCI threatened to do this at an Anchorage Assembly work session earlier this week," said Morrison. "I find it ironic that the company which has promoted competition for so many years is now trying to prevent competition in the marketplace."

The GCI action came in the form of an amendment to SB 213, a bill currently before the legislature that would extend the life of the Alaska Public Utilities Commission. "ATU is involved in the increasingly competitive telecommunications industry, and this legislation appears to be aimed squarely at placing the assets of the citizens of Anchorage at risk," Morrison said. "This clearly is to the benefit of GCI and to the detriment of the owners of ATU -- the citizens of Anchorage."

(MORE)

"If this amendment becomes law, it could cripple our ability to provide modern telecommunications services," said Morrison. "The primary way ATU meets our customers' needs is by borrowing money to pay for new technology."

Although the GCI-sponsored amendment is directed at ATU, the language is written so broadly that it will likely affect other Anchorage utilities. It might even apply to all the municipally-owned utilities in the state, and there are many, from Ketchikan to Fairbanks, Morrison said.

Morrison pointed out that GCI's proposed amendment, while aimed at an ATU plan announced Feb. 14 to go into the long-distance business, could eventually affect ATU's core local telephone business. "The U.S. Congress is expected to open up local phone service to competition within a few months," Morrison said. "When that happens, the GCI amendment could prevent us from upgrading our local service, since it will then be competitive."

"Most of ATU's planned 'Information Superhighway' services would be affected by the GCI amendment," Morrison said. "GCI is single-handedly attempting to deprive Anchorage residents from receiving everything from basic telephone dial tone to the high-tech services of the future. It's an outrageous, behind-the-scenes maneuver in the closing days of the legislature which must be stopped."

PROPRIETARY AND  
CONFIDENTIAL

WHITE PAPER  
POTENTIAL AMENDMENT THAT WOULD BAR  
ATU FROM USING BONDS TO SUPPORT COMPETITIVE SERVICES

The strongest challenge to any such amendment would likely be constitutional as such an amendment implicates many provisions of the Alaska constitution. The strongest argument rests on Article II, Section 19 of Alaska's constitution. It provides that:

Local or Special Acts. The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination.

The Alaska Supreme Court has said this provision bars the legislature from enacting a law that selectively intervenes in local governmental affairs. The test is whether the legislation bears a "fair and substantial relationship" to legitimate purposes. If this test is satisfied, a bill will not be invalid because it has incidental local effect or incidental private advantages. The key is whether the act has a legitimate purpose, and whether it has, either by its terms or by its effect, discriminates against a business or individual. Even if an act appears to apply evenly across the state, it will be declared unconstitutional if it is directed at one municipal entity.

A second provision of the Alaska constitution supports ATU's position. This is Article X, Alaska's "home-rule" provision. Section I states that the Article's purpose is to provide "maximum local self-government," and Section 11 grants all legislative powers to home-rule municipalities except for those expressly prohibited. It is pursuant to this provision that the City of Anchorage enacted its home-rule charter, which allows the municipality to own and operate public utilities. Importantly, the charter provision, as originally enacted, mandates that the city operate public utilities competitively: it requires that each municipal utility "be operated in accordance with the general standards common to utilities providing the same utility service."

This argument is bolstered by Article I, Section II of the Constitution. It provides that "all political power is inherent in the people." The residents of the municipality voted in 1991 to amend the Anchorage Charter through Proposition 32 and to require that ATU be run competitively and to provide a dividend to the Municipality of Anchorage. Again, the power to amend the charter arises directly out of the Alaska constitution's home-rule provision.

Not Offered

MUNICIPALITY OF ANCHORAGE  
1994 LEGISLATIVE PROGRAM

LEGISLATIVE ISSUES

TITLE: Alaska Statute Change Concerning Public Utilities

The Municipality of Anchorage and Municipal Light and Power recommend the following changes at Section 42.05.381(b) of the Alaska Statute as follows:

(b) In establishing the revenue requirements of a municipally owned and operated utility the Municipality is entitled to include a reasonable (rate of return) profit.

and, at Section 42.05.521 of the Alaska Statute as follows:

Section 42.05.521. Impaired capital. When the Commission finds that the capital of a public utility corporation is impaired, or might become impaired, it may, after investigation and hearing, issue an order directing the public utility to cease paying dividends on its common stock until the impairment has been removed. Nothing in this section shall prohibit a public utility from the distribution up to one third of its profit earned in a given year in accordance with Section 42.05.531. (Section 6, Chapter 113 SLA 1970)

JUSTIFICATION:

Section 42.05.381(b) Change from Rate of Return to Profit.

In every rate case ML&P has had before the Alaska Public Utilities Commission (APUC) since 1980, ML&P has indicated the inadequacy of the rates that were being granted. ML&P's concern was the fact that the rates that were granted did not provide a reasonable opportunity for a positive bottom line. In the past rate cases, APUC staff advocate a zero bottom line. ML&P focused on the adequacy of rates regardless of the methodology used to insure that this utility had bottom line earnings. In this respect, the rate of return methodology is a theoretical calculation that does not necessarily insure profit.

(more)

SENATE FINANCE  
COMMITTEE  
Amendment Number: ① ML&P  
Bill Number: SB 213  
Sponsor: \_\_\_\_\_ Date: 4/16/94  
Logged In By: \_\_\_\_\_

**Alaska Statute Change Concerning Public Utilities  
Continued**

Changing the statute from rate of return to profit insures that the test for reasonableness includes cost recovery through rates that have been set which includes a profit to the utility.

Section 42.05.521 addition is included to insure that the owners of a utility, in this case the Municipality, can receive a return even if capital is impaired.

**Contact:** Ronald J. Kuczek  
Assistant to General Manager  
**Phone:** 263-5424



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April 13, 1994

Sen. Druce Pearce, Co-Chairman  
Senate Finance Committee  
Juneau, Alaska

Dear Sen. Pearce:

Section 1 of CS SB 213 (Jud.) is a provision which this association believes should be a part of any legislation extending the APUC as a result of the current sunset review process. The effect of this section is to remove the directive that the APUC's statutes shall be "liberally construed" and replace that with a more moderate directive.

The "liberally construed" language has been a part of this statute since the APUC was created in essentially its present form in the 1960's. Historically, this language has been used numerous times by the commission. Sometimes those uses have been for the benefit of the utility involved; sometimes they have been for the detriment of the utility. On several occasions, those uses of "liberally construed" have resulted in appeals to the courts. The result of those appeals is about evenly divided between the commission and the utilities.

Although most of the uses of "liberally construed" are relatively minor in nature, we strongly feel that this change is very important. A classic illustration of why we feel that way came up in 1992 when the commission was considering the licensing of the Healy Clean Coal Project. The position was advocated that, using "liberally construed" as their authority, the commission should write new law by requiring the feasibility study to include calculations of "environmental externalities." Two of the then five commissioners agreed to this position. Fortunately, they were the minority, but a different set of individuals could very easily produce a different result. In fact, that case is currently on appeal by Trustees For Alaska.

Whenever the authority of the APUC needs to be expanded, it should be the legislature, not the commission, that makes that decision.

Sincerely,

David Hutchens

## "Liberally Construed"

HB 213 would extend the Alaska Public Utilities Commission and the Regulatory Cost Charge that funds it until 1998. An amendment may be proposed to delete the phrase "liberally construed from the Commission's enabling statute. The Commission opposes this amendment.

The current language of Section 42.05.141 of Alaska Statutes, entitled "GENERAL POWERS AND DUTIES OF THE COMMISSION", states in part:

(a) The Alaska Public Utilities Commission may  
(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be **liberally construed** to accomplish its stated purposes; ....(emphasis added)

### 1. Does not expand the powers of the APUC.

In HEA vs. City of Kenai the Supreme Court said:

In sum, we have construed AS 42.05.141(a)(1) to mean that **the actual areas in which the APUC may exercise its adjudicatory authority are quite narrow.** Within those narrow areas, however, the APUC's powers to adjudicate are plenary, as broad as the specific provisions of the act permit....

This provision presents two guiding principles for determining the extent of the APUC's jurisdiction under specific provisions of the Act. On the one hand, it includes a principle of limitation, restricting the APUC's power to the specific jurisdictional areas of its "stated purposes." On the other hand, it includes a principle of expansion, mandating that the APUC's power to act within its specific areas of jurisdiction "is to be liberally construed." (emphasis added)

### 2. Benefits utilities.

Routinely the Commission allows interim rates to go into effect without requiring the utility to escrow funds or post a bond under AS 42.05.421(c). It does this by making rates interim refundable, which again benefits the utility. The authority for this is "liberally construed."

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## "Liberally Construed"

Page 2

The courts have not used the term "liberally construed" very often (only 8 times). Where they have, it has been to the benefit of utilities in half of the cases.

The Commission itself has only discussed the issue of "liberally construed" nine times in 25 years. In at least three of these cases the Commission acted to allow the intention of the utility or applicant for a certificate to be accomplished by waiving technical irregularities. In another the Commission found that it did not have statutory authority to recognize a doctrine of "retained rights" requested by a telephone utility under statute, despite "liberally construed".

### 3. Benefits customers.

Often the Commission has granted "temporary operating authority" to a utility while its application for a certificate is pending. Both the customers and the utility benefit, but the authority for temporary certificates is not explicit. It comes from "liberally construed".

Many utilities face increased competition as the result of changes in technology and federal law. The Commission needs the flexibility that "liberally construed" provides to allow existing utilities to compete on an equal footing.

### 4. Frees up Legislators from Regulating Utilities

Regulatory statutes are generally drafted broadly. Legislators cannot foresee every problem that will arise in administering a statute and the liberally construed language gives regulators the flexibility to resolve these problems. The legislature sets the goals and the policies, leaving the implementation of the program to the commission. The budget process and the sunset review process provide plenty of room for legislative oversight.

Justice Frankfurter recognized that administrative agencies were created to perform a task which neither courts nor legislatures could accomplish—to regulate the practices of industries in a rapidly changing world. The same considerations that led to the creation of the public utilities commission led the legislature to authorize their implied powers to be liberally construed.

Deletion of this phrase would lead to strict construction of implied powers. This means that legislation would be required

"Liberally Construed"

Page 3

whenever a court finds a gap in an agency's power. This forces the legislature back into the regulatory role that they sought to escape by creating the commission in the first place. Removing "liberally construed" from the Commission's powers and duties section would have impacts well beyond statutory construction in the courts.



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April 13, 1994

Sen. Drue Pearce, Co-Chairman  
Senate Finance Committee  
Juneau, Alaska

Dear Sen. Pearce:

Attached is a report from the law firm which represents this association. At our request, they examined Alaska state law to determine which other state agencies have in their statutes a directive that they be "liberally construed." They could not find any other instance where "liberally construed" was used. However, the directive was quite common that the statutes for these other agencies be "the powers expressly granted or necessarily implied..."

It is that same level of regulatory authority which we seek for the Alaska Public Utilities Commission. To assist the APUC in making the transition to this new status, it is appropriate that a special effective date be used for this section of July 1, 1995 as is currently provided in Section 17.


Sincerely,

David Hutchens

KEMPPPEL, HUFFMAN AND GINDER, P.C.

MEMORANDUM

TO: Roger R. Kemppel

FROM: Donald C. Ellis 

DATE: March 31, 1994

SUBJECT: Research re "Liberally Construed" Powers

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As requested, I have researched the powers granted to various state boards and commissions to determine if, akin to the APUC, their powers are to be "liberally construed."

I first asked Westlaw to identify all portions of the Alaska Statutes Annotated which use the phrase "liberally construed." The results of that research are attached. Other than the APUC, it does not appear that the phrase is utilized in any statutory section describing the powers of a state board or commission.

I have reviewed a number of the powers and duties clauses for various state boards and commissions. The results are as follow:

- i. Alcoholic Beverage Control Board - AS 04.06.090  
The board is vested with the powers, duties, and responsibilities necessary for the control of alcoholic beverages . . . .
2. Alaska Public Offices Commission - AS 15.13.030(10)  
Adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50, and this chapter, subject to the provisions of the Administrative Procedures Act.
3. Alaska Housing Finance Corporation - AS 18.56.090(23)  
Do all acts and things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in this chapter.

TO: Roger R. Kemppel  
FROM: Donald C. Ellis  
DATE: March 31, 1994  
SUBJECT: Research re "Liberal Construed" Powers  
PAGE: 2

4. Alaska Railroad Corporation - AS 42.40.250(30)

Do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws and regulations of the federal government.

5. Department of Environmental Conservation - AS 44.46.020

Take actions that are necessary and proper to further the policy declared in AS 46.03.010.

6. Alaska Commercial Fishing and Agriculture Bank - AS 44.81.210(19)

Do what is necessary or desirable to carry out the corporate purposes and powers expressed or implied in this chapter.

7. Alaska Gas Pipeline Financing Authority - AS 44.82.080(8)

To enter into contracts or agreements with respect to the exercise of its powers, and to do all things necessary or convenient to carry out its purpose and to exercise the powers granted in this chapter.

8. Alaska Municipal Bond Bank Authority - AS 44.85.080(21)

Do all acts and things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in this chapter.

9. AIDEA - AS 44.88.080(11)

To enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter.

TO: Roger R. Kemppel  
FROM: Donald C. Ellis  
DATE: March 31, 1994  
SUBJECT: Research re "Liberally Construed" Powers  
PAGE: 3

There are two commissions which do not appear to have any similar expression of their powers. Those are Fish and Game, AS 16.05.241, and the State Commission for Human Rights, AS 18.80.060.

DCE:lka

Attachments

WITH PROPOSED ELECTRIC EXCLUSION (3/10/93 WORKDRAFT K)  
 TOTAL POWER PRODUCTION EXPENSES  
 JULY 1, 1993 - JUNE 30, 1994

LINE UTILITY GROSS REVENUES

SECTOR	1992 Revenue (Actual)	Percent RCC (1.21)	Estimated RCC
1 Electric	\$169,936,189	0.586%	\$995,088
2 Gas	114,195,505	0.586%	\$668,713
3 Refuse	20,656,122	0.586%	\$120,955
4 Wastewater	20,594,329	0.586%	\$120,593
5 Local Exchange Telephone	78,835,789	0.586%	\$461,635
6 Interexchange Telephone	92,130,745	0.586%	\$539,486
7 Cable	502,580	0.586%	\$2,942
8 Water	24,097,453	0.586%	\$141,106
9 Pipeline	111,838,906	0.586%	\$654,890
10 TOTAL	<u>\$632,791,538</u>		<u>\$3,785,418</u>

FORMULA FOR COMPUTING RCC: RCC = (B - E + X) / OR

11 B = APUC Budget		\$3,634,200
12 E = Estimated Actual Cost Charges (\$100,000) + First Quarter Estimated Collections		(100,000)
13 X = Allowance for Uncollectibles = 5% x APUC Budget		181,210
15 TOTAL TO BE RECOVERED		<u>\$3,785,418</u>
16 OR = Utility Gross Receipts		0.5856% NEW RCC RATE
17 Full Year (1.18)	\$632,791,538	0.586% New (Rounded)
18		0.455% Old RCC Rate
		0.131% Difference
19 FY94 Estimated Revenue Base	<u>632,791,538</u>	<u>20.87% '98 Change</u>
20 RCC Percent (1.15 / 1.19)		<u>0.58566%</u>
21 RCC PERCENT ROUNDED		<u>0.586%</u>

COMPUTATION PER ELECTRIC kWh

22 1992 Electric Gross Retail Revenue (1.1)	\$169,936,189	1,643,270 Electric Share of RCC for FY94
23		995,088 Less Revised RCC Electric Share
24 TIMES: RCC (1.21)	0.586%	648,182 LINE 79 EXCLUSION (Using Total Power Production Expenses)
25 Amount Derived from Electric (1.23 x 1.24)	<u>\$169,936,189</u>	192,416 Less Legislative Audit Computation of Electric Overallocation (Sunset Audit, page 8)
26 1992 Electric Retail kWh	<u>3,644,576,595</u>	<u>\$455,766 DIFFERENCE</u>
27		
28 Rate per kWh (1.25 / 1.27)		

0003/003

AK PUB UTIL COMM

907 276 0180

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## Operating Budget

# Operating Budget

	FY92	FY93	Percent Change
<b>APPROPRIATIONS</b>			
71000 Personal Services	\$2,430,300	\$2,455,400	1.0%
72000 Travel	51,400	57,800	12.5%
73000 Contractual	1,114,800	1,163,500	4.4%
74000 Commodities	27,600	43,700	58.3%
75000 Equipment	2,900	20,400	603.4%
<b>TOTALS</b>	<u>\$3,627,000</u>	<u>\$3,740,800</u>	<u>3.1%</u>
<b>EXPENDITURES</b>			
71000 Personal Services	\$2,431,602	\$2,366,884	-2.7%
72000 Travel	40,383	47,777	18.3%
73000 Contractual	1,021,645	913,309	-10.6%
74000 Commodities	79,583	94,049	18.2%
75000 Equipment	52,556	71,327	35.7%
<b>TOTALS</b>	<u>\$3,625,769</u>	<u>\$3,493,348</u>	<u>-3.7%</u>
<b>REVENUE RECEIPTS <sup>1</sup></b>			
General Fund:	\$207,943		
General Fund			
Program Receipts:		\$3,897,553 <sup>2</sup>	
<b>TOTAL RECOVERED</b>	<u>\$207,943</u>	<u>\$3,897,553</u>	

<sup>1</sup> The Commission received revenues under various provisions of its statutes including application fees (AS 42.05.861/AS 42.05.807), copying and postage charges (AS 42.05.201) and cost allocations in proceedings (AS 42.05.861/AS 42.05.610).

<sup>2</sup> The Commission funding was changed to General fund Program Receipts in FY93 (3 AAC 47) under the Regulatory Cost Charge program.

ALASKA PUBLIC UTILITIES COMMISSION

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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PHONE: (907) 278-6222  
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March 1, 1993

Mr. Randy S. Welker, CPA  
Legislative Auditor  
Legislative Budget and Audit Committee  
P.O. Box 113300  
Juneau, Alaska 99811-3300

RECEIVED  
MAR - 5 1993

LEGISLATIVE AUDIT

Ref: Audit Control No. 08-1404-93

Dear Mr. Welker:

On behalf of the Alaska Public Utilities Commission (Commission), I appreciate the opportunity to respond to your agency's audit of the Alaska Public Utilities Commission (08-1404-93). The Commission concurs with your finding in the "Report Conclusions" that the life of the Commission be extended until June 30, 2003. Therefore, this letter will focus on the Commission's response to your "Findings and Recommendations".

The audit states on page 1 "APUC was created to regulate public utilities so that citizens could enjoy adequate service at the lowest reasonable rates" (emphasis added). The actual ratemaking standard applied by the statute is "just and reasonable".

Recommendation No. 1 Alaska Statute 42.05.253 should be amended to require APUC to periodically adjust the regulatory cost charge (RCC) on an industry by industry basis. Further, the automatic repeal date of this statute should be deleted.<sup>1</sup>

The Commission agrees that the program should be made permanent by deleting the automatic repeal date for the Regulatory Cost Charge Program (RCC). Last year the legislature switched the funding source for the Commission from general funds to this regulatory assessment. The Commission expended significant resources in developing regulations and procedures to make the program work and to make compliance by affected entities as straightforward as possible. The program is in place and running smoothly.

However, the Commission cannot support the recommendation to require itemization of the rates under the RCC program by utility/pipeline carrier type. Although in theory the recommendation has some merit, it is not at all clear to the Commission that it would be either practical or cost-effective to attempt to implement it at this time.

<sup>1</sup> To carry out this recommendation fully, the repeal date for AS 42.06.285 (pipeline carrier regulatory cost charge) should also be deleted.

Letter to Mr. Randy Welker, CPA  
Page 2 of 3  
March 1, 1993

Individual RCC rates would require full and direct allocation of the Commission's costs. The recommendation, if implemented as drafted, would substantially increase the cost of the RCC program. Full cost allocation would be expensive, especially during the year when it was implemented. A permanent increment to the Commission's budget would be required. The Commission would face a new administrative burden of setting individual RCC rates and handling protests to the rates.

One of the key principles guiding the development of the RCC was simplicity. The Commission has been able to absorb the ongoing costs of the RCC program from its existing budget, because the program has been kept simple and workable. Your recommendation for further refinement of the RCC would require the statutory cap of .61% of adjusted gross revenues (AS 42.05.253(a)) to be substantially increased. Based on your estimates by utility type for purposes of discussion, the current authorized budget for the Commission would require increasing the cap to .85% for certain utility groups, at a minimum.

From the perspective of most utility customers facing a regulatory cost charge bill of less than \$20 per year, different rates for different utility types would not have a measurable effect on their total bill.

Recommendation No. 2 Alaska Statute 42.05.711 should be amended to make it easier for utility consumers to opt in or out of regulation.

The Commission agrees in part. Since the legislature reached a policy conclusion that small utilities ought to be provided the statutory option to deregulate by majority vote, it seems appropriate to periodically adjust the gross revenue cutoff levels to maintain this as a realistic option. These gross revenue cutoff levels have not been adjusted since they were enacted in 1980.

Increasing the cut-off from \$325,000 to \$500,000, for example, would allow the members of nine additional economically regulated electric utilities to decide whether to vote for deregulation. They are Bettles, Far North, Gustavus, Manley, Middle Kuskokwim, Napakiak, Northway, PUI and Teller. Middle Kuskokwim is already eligible to vote for deregulation as a cooperative under AS 42.05.711(h). Attachment #1 lists electric and telephone utility gross revenues.

The cut-off for local exchange telephone companies would have to be increased from \$325,000 to approximately \$850,000 in order for any other utility to qualify for the option of voting to deregulate.

The Commission does support increases in the cutoff levels if there

Letter to Mr. Randy Welker, CPA  
Page 3 of 3  
March 1, 1993

is some compelling evidence that the benefits of regulation are not commensurate with the cost. Although the enactment of the RCC has quantified the cost side, the benefits, although tangible, are still difficult to quantify.

Recommendation No. 3 APUC should establish a timekeeping system.

The Commission agrees that this recommendation is worthwhile to pursue. If accomplished for internal management purposes, the system could be designed relatively economically. However, if the system is required to serve as the basis for billings, such as those recommended in Recommendation #1, it would be substantially more costly. In either case a fiscal note would be required to carry out this recommendation.

Recommendation No. 4 APUC should consider how to best ensure commission member access to adequate staff support and advice.

The Commission agrees.

Commission staff become a party to a proceeding only when designated to be so by Commission order. This decision is typically made by the Commissioners in adjudicatory session soon after a docket is established.

The Commission is familiar with the alternate models for deployment of the staff resources outlined in your report and will continue to entertain possibilities for improvement.

The Commission believes that a simplified method of obtaining counsel to support the Commission under contract is needed for cases where the attorney general represents staff as a party. Extended procurement procedures and the approval of the attorney general to selected the legal contractor both complicate this process.

Recommendation No. 5 The APUC member's terms of office should be staggered.

The Commission agrees. Legislation would be required to accomplish this change.

Thank you for the opportunity to respond.

Sincerely,  
Don Schröer



Chairman

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

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## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 4, 1994

The Honorable Bill Hudson  
House Labor and Commerce Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Hudson:

This is a response to your letter requesting the Attorney General's opinion about the ramifications of amending AS 42.05.141(a)(1) to replace "the powers of the commission shall be liberally construed to accomplish its stated purpose" with "the powers of the commission shall be those specifically conferred by statute as necessarily implied by those specific grants of authority."

If the proposed substitute language is adopted, it will be harder for this office to advise the APUC about the extent of its authority or to predict the outcome of litigation over APUC authority. We think adoption of the substitute language is likely to encourage the relitigation of a number of issues that are now settled by court decisions, and to call into question the commission's authority for some actions it has taken in the past, including some which are now quite routine. Adoption of this substitute is also likely to restrict the APUC's ability to deal with newly arising problems even though traditional utility operations are changing rapidly in today's world.

In a number of cases interpreting the existing AS 42.05.141(a)(1), the Alaska Supreme Court has said that the language incorporates both a principle of limitation--a narrow limit on areas of APUC's authority--and a principle of expansion--broad authority to deal with those areas of authority. The proposed substitute language also appears to contain competing limitation and expansion principles, but we have no court guidance about the meaning of this new wording. What seems clear about the proposed amendment is that it would change the focus of any effort to interpret APUC authority. The key to interpretation would no longer be the stated purpose of the APUC Act; the key would become specific mention in the Act of a particular power.

The fundamental problem with this is that the powers statutorily conferred on the APUC are very unspecific. For

The Honorable Bill Eudson  
House Labor and Commerce Committee

April 4, 1994  
Page 2

example, the APUC is supposed to "regulate" public utilities in the state.<sup>1</sup> General language like "regulate" is not unusual in agency statutes; both Congress and state legislatures often grant agency powers in general and ambiguous terms. Leading administrative scholars recognize that specific language spelling out agency authority is almost impossible to write.<sup>2</sup>

By limiting the APUC's authority to "powers. . . specifically conferred by statute as necessarily implied by those specific grants of authority," when the enabling statutes are not stated specifically, the legislature would probably severely limit the APUC's flexibility to react to unique or unforeseen circumstances.

Very truly yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:

*Virginia A. Rusch*  
Virginia A. Rusch  
Assistant Attorney General

VAR, rmg

cc: Deborah Behr, Assistant Attorney General  
Raga Elim, Legislative Liaison, Office of the Governor  
Don Schöer, Chairman, Alaska Public Utilities Commission

<sup>1</sup> Another example is that AS 42.05.371 and AS 42.05.411 forbid utilities from collecting any rates that have not been approved by the Commission. The APUC is presumably supposed to enforce this prohibition, but nothing in the statutes confers specific authority for the APUC to order a utility to refund some or all of charges collected in the absence of an approved rate. The APUC has often ordered such refunds in providing consumer complaint assistance, and now is engaged in litigation over an order to refund telephone utility rates for untariffed services.

<sup>2</sup> See, for example, K. C. Davis and R. Pierce, Jr., Administrative Law Treatise, §§ 3.1, 14.2 (Third Edition, Little Brown and Co., 1994).

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT**1018 WEST 6TH AVENUE, SUITE 400  
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ALASKA PUBLIC UTILITIES COMMISSION

April 7, 1994

The Honorable Bill Hudson  
House Labor and Commerce Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Hudson:

In Mr. Dave Hutchens' letter of April 5, 1994, ARECA contends that it seeks to take the "liberally construed" language out of the APUC statutes only to bring the APUC's level of regulatory authority in line with other agencies. In fact, replacement of the "liberally construed" part of AS 42.05.141(a)(1) with the proposed ARECA amendment would have the effect of severely limiting the APUC's authority to regulate in comparison with other comparable state agencies.

I. THE APUC IS THE TYPE OF AGENCY FOR WHICH THE ALASKA SUPREME COURT HAS CONSTRUED POWERS LIBERALLY EVEN IN THE ABSENCE OF A SPECIFIC DIRECTIVE.

The Alaska Supreme Court has repeatedly held that certain statutes and constitutional provisions should be "liberally construed" even when the agency statute does not use that term because the subject matter is "remedial," or involves agency work that protects consumers, workers, or resources of the state.<sup>1</sup> Included in this group are the following:

A. Unfair Trade Practices and Consumer Protection Act. AS 45.50.010--900. According to the court, this Act is a "remedial civil" statute which is to be accorded a liberal construction. State v. First Nat'l Bank, 660 P.2d 406 (Alaska 1982); State v. O'Neill Investigations, Inc., 609 P.2d 520 (Alaska 1980).

B. Laws regarding exemptions from seizure of property to satisfy judgments are "remedial" and should be "liberally construed." Guterman v. First Nat'l Bank, 597 P.2d 969 (Alaska 1979).

C. Fish and Game Boards. AS 16.05.221. The court said "conservation laws" should be liberally construed. Kenai Peninsula

---

<sup>1</sup> We would also like to point out that review of ARECA's research shows that the phrase "liberally construed" does appear in one statutory scheme not mentioned by ARECA, the Alaska Employment Security Act, AS 23.20.005.

Fisherman's Association v. State, 628 P.2d 897 (Alaska 1981)

D. Alaska Workman's Compensation Act. AS 23.30.095. The court said law should be construed in accordance with "liberal humanitarian purposes" of the Act. Fluor Alaska Inc., v. Mendoza, 616 P.2d 25 (Alaska 1980).

E. The Alaska Supreme Court has also held that Constitutional and statutory provisions regarding initiative and referendum powers, should be "liberally construed" because people are exercising a power reserved to them. Municipality of Anchorage v. Frohne, 568 P.2d 3 (Alaska 1977).

Based on the above, the APUC, an agency whose purpose is to protect the public interest by assuring the reasonableness of utility rates and practices, is precisely the kind of agency for which the court would hold that powers should be liberally construed, even in the absence of a specific statement to that effect. However, the scene is considerably muddled if the legislature takes out the existing "liberally construed" language in AS 42.05.141(a)(1) because it will inevitably be argued that the legislature therefore intended to limit the APUC's powers, even though the legislature has not made specific any desire to limit the APUC's regulatory work.

**II. THE AGENCY POWERS LISTED IN ARECA'S RESEARCH ARE MUCH BROADER THAN THE LANGUAGE ARECA'S AMENDMENT WOULD SUBSTITUTE FOR "LIBERALLY CONSTRUED."**

In contrast with the agencies discussed above, many of the agencies whose statutes are discussed in the ARECA's research are for the most part not "remedial" agencies; they are economic development agencies.

More important, a close look at the agency statutes mentioned in ARECA's research shows that their powers are for the most part to be construed very broadly even though the words "liberally construed" do not appear. The statutes cited by ARECA direct that the agencies may do all things "necessary" or "desirable" or "proper" or "convenient" or have the powers "expressly and necessarily implied." This kind of statutory language is substantially broader than the words "as necessarily implied by those specific grants of authority" which are substituted in the bill before this committee.

Sincerely,



Don Schröer  
Chairman  
Alaska Public Utilities Commission

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

April 15, 1994

Honorable Drue Pearce  
Senator  
Honorable Steve Frank  
Senator  
Co-Chairs, Senate Finance Committee  
Alaska State Senate  
via Telecopier 465-3872

Re: SB 213, APUC Sunset Extension

Dear Senator Pearce and Senator Frank:

I understand that SB 213, "An Act extending the Alaska Public Utilities Commission; and relating to regulation of public utilities and to regulatory cost charges" has been scheduled for hearing in the Finance Committee Monday, April 18 at 9:00 a.m. Commissioner Alyce Hanley and I will be available to testify on this bill.

One key provision of the bill (Section 1) would amend the powers and duties section of the Commission's statute. It would emaciate the agency's ability to regulate monopoly public utilities in the public interest. Customers of public utilities would be harmed by the change. No evidence has been offered by the proponents of the change that a problem exists that needs to be solved. The Commission supports the deletion of Section 1. The current wording of AS 42.05.142(a) works just fine.

At the Chairman's request the Department of Law advised the House Labor & Commerce Committee that:

We think adoption of the substitute language is likely to encourage the relitigation of a number of issues that are now settled by court decisions, and to call into question the commission's authority for some actions it has taken in the past, including some which are quite routine....

By limiting the APUC's authority to "powers... specifically conferred by statute or necessarily implied by a statutory grant of authority," when the enabling statutes are not stated specifically, the legislature would probably severely limit the APUC's flexibility to react to unique or unforeseen circumstances. (April 4, 1994 letter from Attorney General to Honorable Bill Hudson)

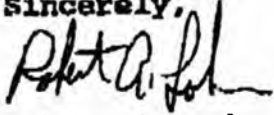
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Letter to Senators Pearce and Frank  
Senate Finance Committee  
April 15, 1994  
Page 2

I have enclosed background materials that make the case for deletion of Section 1. Commission witnesses are prepared to discuss SB 213 on Monday. I look forward to the opportunity to testify.

Sincerely,



Robert A. Lohr  
Executive Director

## REPORT CONCLUSIONS

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various commission practices. The final policy decisions affecting these practices require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and recommendations presented in this report to assist them in evaluating the potential impact of any policy changes.

### Report Conclusions

In our opinion, the Alaska Public Utilities Commission is operating in an efficient and effective manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated by APUC. This process stabilizes demand for the utility service by eliminating competition and thereby allowing economies of scale to operate. Economic regulation by the commission, in place of that competition, ensures that the utilities provide adequate service at the lowest reasonable rates.

We recommend that AS 44.66.010(a)(4) be amended to extend the life of APUC to June 30, 2003. APUC has consistently demonstrated public need; we believe it is in the public's best interest to extend the life of this commission for ten years. However, we recognize that performance issues periodically arise. The Division of Legislative Audit can address these interim issues, if any, through a special audit at the request of the Legislative Budget and Audit Committee.

## FINDINGS AND RECOMMENDATIONS

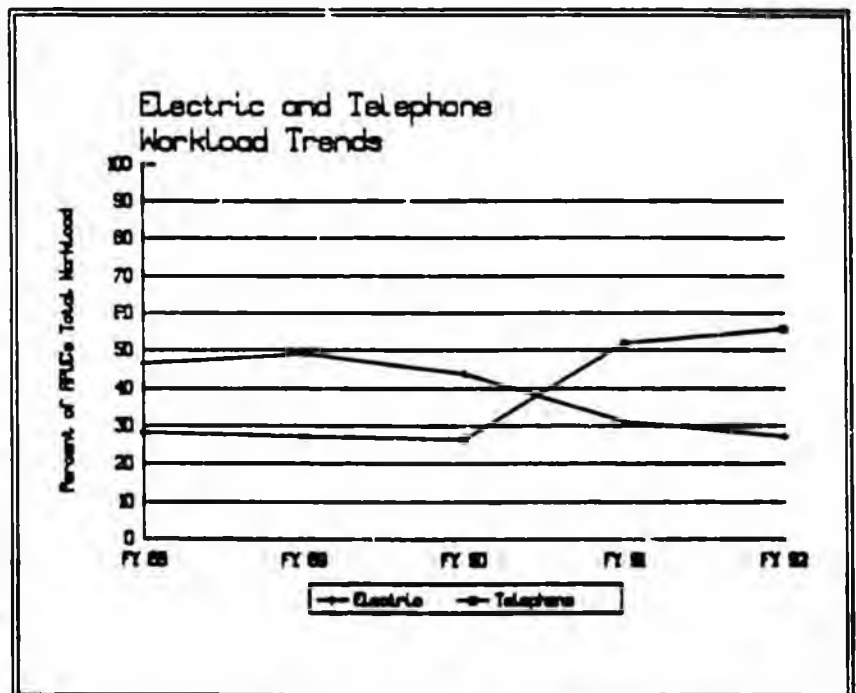
### Recommendation No. 1

Alaska Statute 42.05.253 should be amended to require APUC to periodically adjust the regulatory cost charge (RCC) on an industry by industry basis. Further, the automatic repeal date of this statute should be deleted.

In our 1989 sunset audit report we recommended a program receipts budget for APUC, not because it was an alternative funding source but because of the potential benefits that this mechanism could provide. A user fee design can establish a basic fairness in that only those who benefit from the regulatory process bear its cost; it can also encourage consumers to recognize and eliminate unwarranted regulation through deregulation elections. However, these benefits will only be realized to the extent that the RCC program reasonably links the cost-causers with the cost-payers.

For FY 93, the legislature authorized a new RCC program which passes APUC's costs on to the consumers of regulated utilities. This program allocates costs based upon gross revenues. A single charge factor is used across-the-board for all utilities and all industries. Although we believe that a direct workload-based allocation program is preferable, as outlined in our 1989 report, we also continue to believe that a gross revenue based system could realize these benefits if the rates reflect the workload. However, the single RCC factor used in the current plan sacrifices some of program's potential benefit, in that the cost-payers are not necessarily the cost-causers.

We analyzed APUC's workload to evaluate the alignment of cost-causer to cost-payer. In the absence of verifiable data such as utility or industry codings on payroll time sheets, we were forced to approximate the workload by using rough estimates, which were provided on an unofficial basis by commission staff. They provided estimates of the average relative effort required to perform the ongoing APUC functions such as tariff filings, formal proceedings, certification proceedings, and formal and informal complaints. While we acknowledge that the weighting in these analyses is imperfect, we believe it provides an adequate indication of the



commission's workload. We found that the electric and telephone industries, on a combine basis, have represented approximately 79 percent of APUC's workload. The graph of these two industries illustrates the significance, variation, and trend that complicates setting of a RCC rate. The following table compares the commission's estimated FY 93 RCC receipt with the amount calculated based upon the workload over the past three years.

Industry	Flat Rate Allocation		Workload Allocation		Over (Under) Allocation	
	Estimated Gross Revenues	RCC Percent	Estimated FY 93 RCC	Percent of Workload		
Electric	\$260,673,485	.577%	\$1,504,086	34%	\$1,311,670	\$192,416
Telephone	153,306,332	.577%	884,577	45%	1,736,033	(851,456)
Pipeline	99,532,100	.577%	574,300	4%	154,314	419,986
Gas	99,152,056	.577%	572,107	3%	115,736	456,371
Water	22,955,320	.577%	132,452	4%	154,314	(21,862)
Sewer	17,129,576	.577%	98,838	2%	77,157	21,681
Refuse	15,856,758	.577%	91,493	4%	154,314	(62,821)
Cable	0	.577%	0	3%	115,736	(115,736)
Other	0	.577%	0	1%	38,579	(38,579)
<b>Total</b>	<b>\$668,605,627</b>		<b>\$3,857,853</b>	<b>100%</b>	<b>\$3,857,853</b>	<b>\$ 0</b>

This table demonstrates that, based upon the workload over the past three years, the flat across-the-board rate significantly undercharges telephone and overcharges electric, pipeline and gas utilities. Of course, the over or under allocation amount by industry varies depending on how many years of workload are considered. The use of an across-the-board rate incorrectly assumes that an industry's gross revenues are closely correlated to the workload that it creates. Given the significance of the electric and telephone workload variation, and trend, we do not believe that the allocation methodology should assume that all workload cycles reverse themselves and that all industries create the same amount of workload in the long run. Therefore, we recommend that the legislature amend AS 42.05.253 to require APUC to periodically adjust the RCC factors to reflect workload on an industry by industry basis.

Notwithstanding the above, we support the current RCC program; we believe that it provides a measure of equity and responsiveness to unwarranted regulation that was lacking prior to the program. Our recommendation is intended to further the equity and regulator responsiveness objective of this program.

The RCC program was established as a trial program utilizing an automatic repeal of December 31, 1994. As we consider this program to be effective, we recommend that this repeal provision be deleted.

### Recommendation No. 2

Alaska Statute 42.05.711 should be amended to make it easier for utility consumers to opt in or opt out of economic regulation.

In the 1989 sunset audit report, we recommended the deregulation of several industries as well as the smaller utilities in each industry. We continue to believe that not all industries need to be regulated and that the cost of regulation may exceed its benefits, particularly for the smaller utilities. With the recent adoption of a user fee approach under the RCC program, the impetus exists to make state government more responsive; what is lacking is a reasonable mechanism to allow consumers to select whether or not they want their utility to be regulated.

Alaska Statute 42.05.711 exempts electric and telephone utilities with revenues less than \$50,000 and refuse utilities with revenues under \$200,000. However, customers can obtain economic regulation by petitioning APUC. Alaska Statute 42.05.711 presently requires 25% of an exempted utility's subscribers to sign the petition. We believe that this is too great an obstacle to overcome and recommend that an election be called if APUC receives a petition demonstrating significant consumer interest. We recommend that the petition and election requirements be modeled after the deregulation election procedures in AS 42.05.712. These procedures call for an election if the petition is signed by 10% of the first 5,000 subscribers and 3% of the subscribers in excess of 5,000. These elections may only be held once every two years for a given utility.

Alaska Statute 42.05.711 also allows deregulation elections to be held for electric and telephone utilities with revenues of less than \$325,000 and other utilities with revenues under \$100,000. We believe that more consumers should be given the option to deregulate by substantially raising the cut-off amount.

In combination, these two changes would allow APUC and the user fee approach of the new RCC program to be more responsive to the regulatory needs of the utility consumer. The regulatory cost/benefit decision should be made by the consumer.

### Recommendation No. 3

APUC should establish a timekeeping system.

We initially recommended, in 1979, that the commission implement the time system they had purchased. As part of a 1978 management audit of APUC, Arthur Young & Co. developed a time management system to assist the commission in prioritizing, planning, scheduling, and

monitoring the workflow. In response to our recommendation, the commission concurred that a time management system is a useful administrative tool. They indicated that the time system would be implemented.

In our 1989 sunset audit report we recommended that APUC establish a timekeeping system as an integral part of a direct-allocation RCC program. As the legislature selected an RCC program that was not time based, APUC was not required to implement this recommendation. However, as costs to establish and operate a time system are minimal and the benefits are substantial, we continue to recommend it.

The costs of a timekeeping system are minimal.

- The commission should determine what management reports are needed. While we acknowledge that the 1978 time management system is likely outdated, we recommend that the commission review it to assist them in developing this needs definition.
- Purchase and install "canned" software. There is very inexpensive software on the market that should meet the commission's needs. APUC already has a programmer on staff that could handle the installation.
- The ongoing cost to record time would be insignificant. An employee would need only a few minutes a day to electronically enter their time.
- The time system would also require a small amount of computer and personnel time to accumulate the data and generate periodic management reports.

The benefits of a timekeeping system are substantial.

- A time system would give APUC management a greater ability to prioritize, plan, schedule, and monitor their workload. We believe this information would be invaluable to the commission.
- The legislature is often involved in regulatory matters. Using these management reports, APUC would be better able to estimate the full effect of any regulatory changes.
- There is a potential for increased staff efficiency as a result of time sheet accountability.
- Time sheets would provide a defensible basis for the RCC allocation discussed in Recommendation No. 1. However, regardless of the action taken on Recommendation No. 1, the benefits of implementing a timekeeping system far outweigh the costs.

The nature of the commission's business is very different from most state agencies; they deal with a relatively small number of companies and work on discrete projects. APUC's workload is similar to that in the Attorney General's Office and the Department of Transportation and Public Facilities' maintenance and construction divisions, all of which maintain project time systems.

#### Recommendation No. 4

APUC should consider how to best ensure commission member access to adequate staff support and professional advice.

The commission members are inundated with technical information and complex issues. These issues must be thoroughly explored and the commission's decisions must be fully documented. The legislature recognized this difficult task and appropriately established full-time commission members with six-year terms. Nevertheless, there remains a substantial need for staff support and professional advice.

We are concerned that in the instances when commission staff are named as a party in an adjudicatory proceeding, the commission members do not have full access to support staff, professional staff, or legal counsel. The judicial model requires adversarial parties to present the case. APUC staff is frequently designated as a party to a case to provide this necessary balance. The assistant attorney generals advise APUC staff and effectively become a party to the case. Under this judicial model, ex parte communication rules prevent the commission members from directly obtaining assistance or advice from their staff or attorneys; this can only be accomplished if the utility is also present. This may often be impractical.

We believe that the commission would benefit from greater access to their staff and attorneys. The commission should consider how to best ensure full access. We offer the following alternatives:

- A group could be assigned, on a rotational basis, to each case. These individuals would be the party to the case; all others would be available to the commission members.
- Several staff could be assigned, on a rotational basis, directly to the commission. The criteria for selection may vary. The team could include all the professional disciplines, it could target the disciplines currently needed, or it could be a team of executive assistants. The remaining staff would be the party of record.

Although the above approaches have certain drawbacks, we believe that some separation would be achieved thus diminishing the ex parte communication problem. We believe this will enhance the commission's overall efficiency and effectiveness.

#### Recommendation No. 5

The APUC member's terms of office should be staggered.

The Alaska Public Utilities Commission has five members who are appointed by the governor and confirmed by the legislature in joint session to serve six-year terms. On October 31, 1993 two commission seats become available. Because the potential for

disruption of commission activity would be high with two new members coming in at the same time, we recommend the terms be staggered.

Currently, the terms are scheduled to end as follows:

Consumer seat (1) .....	October 31, 1993
Engineering seat .....	October 31, 1993
Legal seat .....	October 31, 1994
Consumer seat (2) .....	October 31, 1996
Finance seat .....	October 31, 1998

We propose this staggering be implemented by modifying the upcoming term of the engineering seat. We propose the following language be added to a temporary or special act:

*The term of the Alaska Public Utilities Commission Engineering seat, which is scheduled to begin on November 1, 1993, shall end on October 31, 1995. This adjustment to the normal six-year term, as established under AS 42.05.030(a), is necessary to appropriately stagger commission membership.*

**Chairman Schröer's Remarks to the  
Senate Labor & Commerce Committee Hearing  
Anchorage, Alaska, Tuesday, September 28, 1993, 1:00 p.m.**

**Sunset Hearing Testimony**

**I. The Alaska Public Utilities Commission**

Thank you for inviting me to testify to you. I am proud of the Commission and I welcome the opportunity to speak to you about our agency. The Commission supports SB 213 and recommends several changes to it.

**A. General Commission Overview**

The APUC is responsible for regulating Alaska's public utilities and pipeline carriers. Our mission statement says:

The Alaska Public Utilities Commission protects and promotes the public interest by certificating and economically regulating only qualified public utilities and pipeline carriers. It oversees the availability, affordability and quality of the utility services which are essential to Alaska's economic development.

It does this by making timely decisions that balance the competing interests of various parties.

The APUC issues certificates of public convenience & necessity to utility service providers and pipeline carriers who are fit, willing and able to provide service. We approve the rates, terms and conditions of service to the public. The Commission also does the rate-setting for the power cost equalization program, which helps out to cover a portion of the bill for high-cost electrical service to almost 69,000 customers.

The Commission consists of five members, each appointed by the Governor for a six-year term. We have a budget of \$3.6 million and a staff of 41, including the Commissioners. I am proud of the work

"department" (DCRA). The bill as passed transferred the PCE calculations to DCRA, but this was not the legislative intent. A revisor's bill has been prepared to correct this error. Meanwhile, the Commission will continue to carry out its assigned responsibilities under this program.

## **2. Refuse Deregulation**

The Commission agrees with the legislative auditor that refuse collection and disposal should be de-regulated at the statewide level, and that municipalities should be authorized to regulate this area.

## **3. Cable Television Regulation**

The Commission is presently applying to the Federal Communications Commission for authority to regulate the basic tier of cable utilities currently regulated by the Commission under state law. This would apply only the BC Cable Company in Juneau at this time. The City & borough of Juneau has expressed interest in regulating cable companies, but state law does not allow this at this time. A change in statutes would be needed to allow local governments to regulate Cable TV.

The Commission recommends adding an exemption to the Procurement Act, 36.30.850 to allow it to hire its expert witnesses for cases in a timely manner.

The Commission has been unable to procure the professional services of expert witnesses in a timely fashion. The deadlines established in proceedings do not permit the procurement process to operate to produce a successful bidder in time for the contractor to properly prepare the case. Other parties to the proceedings utilizing private sector procurement procedures are able to hire their expert witnesses on a timely basis, the Commission is not. This either delays the processing of cases, or forces the Commission's witness to rush the preparation of a case, thus affecting the accuracy and credibility of the work, as well as costing the state more for overtime.

## **II. A.P.U.C.'s Response to the Recommendations of the Legislative Auditor**

The Alaska Public Utilities Commission concurs with the legislative auditor's finding that the Commission is meeting its public purpose and supports extension of the sunset date at least four years.

### **1. Regulatory Cost Charge**

The Commission opposes required readjustment of the RCC on an industry by industry basis. Keep it small. Keep it simple. And

#### **4. Commissioner's Access to Adequate Staff Support**

I am proposing to beef up the staff support available to Commissioners on regulatory policy issues. When Commission Staff is named as a party to a proceeding, the judicial ex parte rule prevent Commissioners from seeking their advice or research, except as formally presented in the case on the record. Specifically we are proposing to upgrade one position and create one new slot to serve as Commissioners' Policy Analysts. Details of this proposal will appear in the Commission's FY 95 budget request.

#### **5. Stagger Commissioner's Terms**

The Commission supported this one, but a statutory change would be needed to correct this time. Two Commissioners terms expire this year.

### **III. Response to Alaska Rural Electric Cooperative Association Recommendations**

I would like to respond to each of the legislative changes suggested by the ARECA.

(1) **Liberally Construed:** The phrase "liberally construed" appears only once in AS 42.05. It is found in section 141, our powers & duties section:

SECTION 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. (a) The Alaska Public Utilities Commission may  
(1) regulate every public utility engaged or proposing to

ruled in their favor about half the time.

The way I read it, this language does not confer upon the APUC any jurisdiction outside of its powers listed in the statute. If the APUC were a country, would do nothing to expand our borders. Instead, it operates only within the statutory powers granted. I do not support deletion of this provision.

The Commission has only discussed the issue of "liberally construed" nine times in all the orders we issued during our first 25 years on the job! In at least three of these cases the Commission acted to allow the intention of the utility or applicant for a certificate to be accomplished by waiving technical irregularities. In another the Commission found that it did not have statutory authority to recognize a doctrine of "retained rights" requested by a telephone utility requested under statute, despite "liberally construed".

(2) The second issue is Negotiated rulemaking. I think this is an interesting idea from the federal government that bears close examination. However, under the Constitution it cannot mean delegation of the rulemaking powers of the Commission to another body. The negotiating group must be treated as a state agency for purposes of the open meetings and public records acts. The process of developing regulations is terribly slow already, and I would not like to see it slowed further.

entities as straightforward as possible. The program is in place and running smoothly.

However, the Commission cannot support the recommendation to require itemization of the rates under the RCC program by utility/pipeline carrier type. Although in theory the recommendation has some merit, it is not at all clear to the Commission that it would be either practical or cost-effective to attempt to implement at this time.

Individual RCC rates would require full and direct allocation of the Commission's costs. The recommendation, if implemented as drafted, would substantially increase the cost of the RCC program. Full cost allocation would be expensive, especially during the year when it was implemented. A permanent increment to the Commission's budget would be required. The Commission would face a new administrative burden of setting individual RCC rates and handling protests to the rates.

One of the key principles guiding the development of the RCC was simplicity. This was true both for the utilities and carriers, their customers, as well for the efficient administration of the program. The Commission has been able to absorb the ongoing costs of the RCC program from its existing budget, because the program has been kept

**KETCHIKAN PUBLIC UTILITIES**

MUNICIPALLY OWNED ELECTRIC • WATER • PHONE

2<sup>ND</sup> JO TONGASE • KETCHIKAN, ALASKA 99901 • TELEPHONE 907-225-1000

April 18, 1994

Mr. Bill Miles  
State Capitol, Room 508  
Juneau, Ak 99801

Dear Mr. Miles:

As a municipally owned telephone utility that falls under APUC regulation for the intrastate portion of its business, we are concerned about Senate Bill S213 and the effect it may have on our ability to plan and provide certain unregulated services to the residents of Ketchikan. The amendment to Section 42.05.431(b) that came out of the Judiciary Committee, if enacted, may limit Ketchikan Public Utility's ability to include its revenue flows from intrastate operations for bonding purposes if the bonding were to finance unregulated business efforts such as cellular, personal communications service (PCS) or cable TV.

In the event that at some future time KPU should become subject to APUC regulation (as Anchorage has) the effect could all but eliminate our ability to compete with a non-municipally owned business that decided to offer unregulated new technology services in the Ketchikan area. For these reasons we ask that the following wording be deleted from Bill S213:

"... and rates set by the commission must be adequate to meet those covenants. However the Commission is not required to set rates for services regulated by the commission to recover the allocated costs and coverage requirements of services that are not regulated by the commission. Bonds or other debt issued to finance unregulated, competitive ventures by a municipally owned utility shall not be incurred in a manner that would permit a creditor, on default, to have recourse to the assets of the basic regulated utility."

As we discussed earlier, I would appreciate your sharing this with the Senate Finance Committee members. Please call if you have any questions or if you require more detail on this subject.

Best Regards,

*John A. Magyar*  
John A. Magyar  
Telephone Division Manager

cc: Senator Robin Taylor  
Thomas W. Stevenson

Sp 213

**TESTIMONY OF  
Michael J. Burns, Chairman  
Board of Directors  
Anchorage Telephone Utility**

**PRESENTED TO THE  
SENATE FINANCE COMMITTEE  
April 18, 1994**

For the record, my name is Michael J. Burns. I am Chairman of the Board of Directors of Anchorage Telephone Utility. On behalf of the Board, I thank the Chair for the opportunity to appear here today to express our views.

I am here to speak in regard to SB 13, extending the existence of the Alaska Public Utilities Commission. Specifically, I want to address an amendment which I am advised has been suggested by GCI. I will speak directly to the amendment in a moment. First, I want to offer some background information which is pertinent to the debate.

The Board of Directors which I chair was created by the voters of Anchorage in 1991. At that time, voters were asked if they wished to sell the company. They chose not to sell. At the same time, voters were asked if they wished to place the company under the control of a Board of Directors, thereby isolating it from the political pressures which were inherent under the old system of management by elected officials. By an overwhelming margin (56 per cent) the voters chose to create the Board of Directors.

In establishing the Board of Directors, the voters they wanted the company to "...be operated and compete in accordance with prevailing industry practices and in a manner which will provide a Dividend to the Municipality." In February of this year, ATU management announced that the company intends to complete five fiber rings in Anchorage, enter the long distance business through a separate subsidiary and begin a pay per view video pilot project. We believe that announcement was in keeping with our instructions from the people of Anchorage.

Prior to making our announcement, we conducted market surveys. We learned that a majority of Anchorage residents equal to that which created the Board of Directors desire that we enter the long distance business. We are convinced that we are following

Burns Testimony  
4/18/94  
Page two

the wishes of Anchorage voters.

Why did ATU decide to enter the long distance business. There are several reasons. First, our analyses indicate that we can make money. While this is a highly competitive market, we believe that a niche exists which we can successfully tap.

There was also our disappointment that Anchorage residents received no benefits from ATU's 18 million dollar reduction in its access charges last year. We had expected the long distance companies to share that 18 million dollars with customers in Anchorage. That did not occur. We believe that we can share at least a portion of that 18 million dollars with our customers.

We are also keeping a close eye on events at the national level. The house has already completed committee work on HR 3636 and it is expected to go to the floor in May. The senate will be holding hearings late this month and next month on S 1822. The White House and both houses of Congress have announced their intention that one of these bills, or a combination of them, will become law this year. This legislation will accomplish three major goals: Open the local market to competition; remove the prohibition against telephone companies and cable companies from entering each others' businesses; and free the Bell Operating Companies from restrictions on their entry into long distance and other businesses. We are convinced that Congress will act. We are also convinced that we must move aggressively into competition or we will cease to exist.

Why do we feel so strongly about this? MCI, which owns a third of GCI, announced recently its intention to enter the local market through new technology. On December 6, 1993, in the Anchorage Daily News, Ron Duncan, CEO of GCI announced his company's intention to enter the local market. Our competitors are close at hand and hard at work. It's just as simple as that.

Another motivation behind our announcement was our desire to assure that Anchorage and Alaska are full participants in the much discussed Information Superhighway. We announced that we will be completing five fiber rings in Anchorage. This technology, known as SONET (Synchronous Optical Network), is highly advanced and, coupled with equally advanced switching equipment, will provide Anchorage with the capacity to enter the 21st century on an equal technological footing with the rest of the nation.

We believe the amendment being proposed by GCI will have serious

consequences. First, we believe there are constitutional issues at stake, not the least of which is the Alaska constitution's reliance on the voters as the final authority. This amendment clearly is intended to frustrate the intentions of the voters of Anchorage. There is also a question interference in the authority of home rule governments. Finally, we wonder if the proposed amendment doesn't violate the constitutional prohibition against passing legislation aimed at a single entity. While we believe GCI's proposed language may have incidental effects on other entities, the proponents have made no secret of their intention that it is aimed at ATU.

From a business point of view, the most serious issue is simply the results of restricting ATU's ability to follow the mandate of the voters and "...compete in accordance prevailing industry practices..." GCI and their major shareholder MCI have publicly announced their intention to enter the local market. Now they are asking the legislature to restrict ATU's ability to compete. If ATU is restricted from aggressively competing and forced to stand frozen like a wounded moose while the wolves circle, then not only will the will of the voters be frustrated but the Municipality of Anchorage will very quickly find itself owning a worthless asset. I am not being dramatic which I say to you that ATU is either allowed to "...compete in accordance with prevailing industry practices..." or the people of Anchorage will see their asset, now worth hundreds of millions of dollars, reduced to whatever we can get for the real estate.

Finally, I would point out that the federal legislation which I discussed earlier will open the local market to competition. That means that the action being supported by GCI will not apply only to the long distance market but, on passage of the federal legislation, will apply to the local market as well. In short, if GCI has its way now, it will have been successful in restricting ATU's ability to compete in all areas.

Given these factors, I ask that you not approve this amendment; that you allow ATU to carry out the wishes of the voters of Anchorage; and that you allow the principles of competition in the marketplace, which GCI at one time championed, to work.

*JUP*

# SENATE COMMITTEE REPORT

DATE: 3/16/94

FURTHER: Finance

DATE TURNED INTO OFFICE: 4/11/94

Judiciary Committee considered SENATE BILL NO. 213

"~~An Act~~ extending the Alaska Public Utilities Commission and the regulatory cost charge."

and recommends it  
be replaced with

and recommends:

replace with \_\_\_\_\_ CS SB 213 (JUP)

or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_

attaches amendment(s)

and report it  
back as follows

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

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

*b/kol*

~~NEW FISCAL NOTES~~ *previous applies*

Department	Date	Zero	Fiscal
<i>Comm Econ Devel.</i>	<i>4/8/94</i>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
*Michael Douley (NO REC)*  
*Suzanne Little (NO REC)*

*George Parks Jacks*

*Adrian L. Taylor*  
Chair: Signature and Recommendation

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

*JMD*

DATE: 5/7/93

*2/3/94*

FURTHER: JUDICIARY  
FINANCE

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/15/94

L&C Committee considered SB 213

~~"An Act~~ extending the Alaska Public Utilities Commission and the regulatory cost charge."

and recommends: \_\_\_\_\_ and a majority of the committee recommends it be replaced with \_\_\_\_\_

replace with \_\_\_\_\_ CS SB 213 (L&C)

same title  
 new title  
 technical title change (HB only)

attaches amendment(s) and do pass

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

*DFN*

**FISCAL NOTE INFORMATION**

CS458

Department	Date	Zero	Fiscal
DCED	2/2/94	<input checked="" type="checkbox"/>	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

*Steve King Repp*  
*Scott Muzzey Sha*

OTHER RECOMMENDATIONS:

*Judith E. Sals NR*

*Tim Kelly - Do Pass*

Chair: Signature and Recommendation

**SB**

**215**

**HFIN**

**FILE**

(11)

Date Referred: April 29, 1994

HOUSE COMMITTEE REPORT  
FURTHER REFERRALS:

Date of Committee Action: 5/5/94

The FINANCE Committee considered:

CSSB 215(FIN) am(efd fld)

CS FOR SENATE BILL NO. 215(FIN) am(efd fld)

OIL/HAZARDOUS SUBS. RELEASE RESPONSE FUND

"An Act relating to oil and hazardous substances; redesignating the oil and hazardous substance release response fund and relating to it; repealing the Citizens' Oversight Council on Oil and Other Hazardous Substances and the authority in law by which marine highway vessels may be designed and constructed to aid in oil and hazardous substance spill cleanup in state marine water using money in the oil and hazardous substance release

RECOMMENDATIONS:

be replaced with HCS (CSSB 215 (FIN))  the same title  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) Revenue 4/27/94  
Law 4/27/94; Admin 4

zero fiscal note BIS

4  zero fiscal note(s) DPS 4/27/94; DEC 4/27/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eileen P. Maclean</i> Maclean	<input checked="" type="checkbox"/>				
<i>Richard J. Foster</i> FOSTER	<input checked="" type="checkbox"/>	<i>Mark Hanley</i> Hanley		<input checked="" type="checkbox"/>	
		<i>Lorne Martin</i> Martin		<input checked="" type="checkbox"/>	
		<i>Sean Parnell</i> Parnell		<input checked="" type="checkbox"/>	
		<i>Ben Grusserdorf</i> Grusserdorf		<input checked="" type="checkbox"/>	
		<i>Tom Hoffman</i> Hoffman		<input checked="" type="checkbox"/>	
		<i>Jay Brown</i> Brown			<input checked="" type="checkbox"/>
		<i>Tom Therniault</i> Therniault		<input checked="" type="checkbox"/>	

*Eileen P. Maclean*  
E P Maclean  
CHAIRMAN'S SIGNATURE

# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO: HCS CSSB 215(RES)**

Revision Date: 04/21/94 Dept. Affected: Public Safety  
 Title: Oil/Hazardous Subs Release Response Fund BRU: Alaska State Troopers  
 Component: Detachments  
 Sponsor: Senator Miller  
 Requestor: H.RES COMPONENT SERIAL NO. 799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b> <small>Revenue Code</small>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

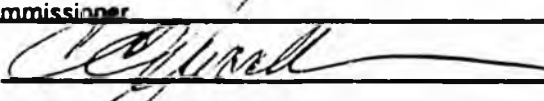
Estimate of current year (FY 94) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

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

No impact is anticipated to the Department of Public Safety.

Prepared By: Lee Ann Lucas Phone: 465-4322  
 Division: Office of Commissioner Date: 04/25/94  
 Approved by Commissioner:  Date: 04/25/94  
 Agency: Richard L. Burton, Dept. of Public Safety

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HCSCSSB 215 (RES)

Revision Date: April 25, 1994  
Title: "...redesignating the oil and hazardous release response fund..."  
Sponsor: Senator Miller  
Requestor: Senate Resources

Department Affected: Department of Law  
BRU: EXXON VALDEZ Litigation  
Component: EXXON VALDEZ Litigation  
COMPONENT SERIAL NO. 1175

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
The House Resources Committee Substitute for SB 215 makes minor technical changes and will not be a fiscal impact for the Department of Law.

Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: April 25, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General  
Agency: Department of Law

Date: April 25, 1994

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# FISCAL NOTE

No. 11  
 Bill Version: HCSCSSB 215 (RES)  
 (H) Publish Date: 4/27/94

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL**

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to oil and hazardous substances..." BRU: Finance  
 Component: Finance  
 Sponsor: Sen. Miller  
 Requestor: (H) Resources COMPONENT SERIAL NO. 59

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY94) cost: none

**POSITIONS:**

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

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

Prepared by: Don Wanie, Director  
 Division: Finance  
 Approved by Commissioner: Nancy Bear Usera  
 Agency: Administration

Phone: 465-2240  
 Date: \_\_\_\_\_  
 Date: 4/26/94

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FISCAL NOTE

No. 10  
 Bill Version HCSCSSB 215 (RES)  
 (H) Publish Date: 4/27/94

STATE OF ALASKA  
 1994 LEGISLATIVE SESSION

BILL 1

Revision Date: \_\_\_\_\_  
 Title: Oil/Hazardous Substance Fund,  
Tax, Plans  
 Sponsor: Senate Resources Committee  
 Requestor: House Resources Committee

Department Affected: Environmental  
Conservation  
 BRU: Spill Prevention and Response  
 Component: All SPAR Components, Response Fund  
Admin. Component in Admin. BRU  
 COMPONENT SERIAL NO. All of the above.

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTLA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY94) cost: 5

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared by: Bob Poe, Director  
 Division: Information & Administrative Services

Phone: 465-5010  
 Date: 4/25/94

Approved by Commissioner: \_\_\_\_\_  
 Agency: Department of Environmental Conservation

Date: 4/25/94

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COMMITTEE COPY

Fiscal Analysis for  
HCS CSSB215(RES)

	No Change From Existing Statute	HCS CSSB215 (RES) Entire Spill Reserve to Response Account
<b>Fiscal Year 1995</b>		
Beginning Balance of Response Fund	\$63.2	
Beginning Balance of Response Account		\$47.7
Beginning Balance of Prevention Account		\$15.5
Total .05 Surcharge Collected in FY95	\$26.2	
Total Response Surcharge Collected in FY95		\$5.2
Total Prevention Surcharge Collected in FY95		\$15.7
Interest Earned in FY95		\$2.5
Prevention & Response Prgm. All Agencies	\$13.5	\$13.5
Estimated Response Account Use	\$0.8	\$0.8
Estimated Cost Recovery to Response Account	\$0.3	\$0.3
Amount of Prevention Program Under-Funded	\$0.0	\$0.0
Ending Balance of Response Fund	\$48.9	
Ending Balance of Response Account		\$46.9
Ending Balance of Prevention Account		\$2.0
Suspension and Reimposition Calculation	(\$6.1)	\$52.5
<b>Fiscal Year 1996</b>		
Beginning Balance of Response Fund	\$75.1	
Beginning Balance of Response Account		\$52.5
Beginning Balance of Prevention Account		\$20.2
Total .05 Surcharge Collected in FY96	\$25.3	
Total Response Surcharge Collected in FY96		\$0.0
Total Prevention Surcharge Collected in FY96		\$15.2
Interest Earned in FY96		\$2.5
Prevention & Response Prgm. All Agencies	\$13.9	\$13.9
Estimated Response Account Use	\$0.8	\$0.8
Estimated Cost Recovery to Response Account	\$0.3	\$0.3
Amount of Prevention Program Under-Funded	\$0.0	\$0.0
Ending Balance of Response Fund	\$60.7	
Ending Balance of Response Account		\$51.7
Ending Balance of Prevention Account		\$6.3
Suspension and Reimposition Calculation	\$4.5	\$62.0

Fiscal Analysis for  
HCS CSSB215(RES)

	No Change From Existing Statute	HCS CSSB215 (RES) Entire Spill Reserve to Response Account
<b>Fiscal Year 1997</b>		
Beginning Balance of Response Fund	\$86.0	
Beginning Balance of Response Account		\$52.0
Beginning Balance of Prevention Account		\$24.0
Total .05 Surcharge Collected in FY97	\$24.8	
Total Response Surcharge Collected in FY97		\$0.0
Total Prevention Surcharge Collected in FY97		\$14.9
Interest Eamed in FY97		\$2.5
Prevention & Response Prgm. All Agencies	\$14.3	\$14.3
Estimated Response Account Use	\$0.8	\$0.8
Estimated Cost Recovery to Response Account	\$0.3	\$0.3
Amount of Prevention Program Under-Funded		\$0.0
Ending Balance of Response Fund	\$71.2	
Ending Balance of Response Account		\$51.2
Ending Balance of Prevention Account		\$9.7
Suspension and Reimposition Calculation	\$14.2	\$51.5
<b>Fiscal Year 1998</b>		
Beginning Balance of Response Fund	\$96.0	
Beginning Balance of Response Account		\$51.5
Beginning Balance of Prevention Account		\$27.0
Total .05 Surcharge Collected in FY98	\$23.8	
Total Response Surcharge Collected in FY98		\$0.0
Total Prevention Surcharge Collected in FY98		\$14.3
Interest Eamed in FY98		\$2.5
Prevention & Response Prgm. All Agencies	\$14.8	\$14.8
Estimated Response Account Use	\$0.8	\$0.8
Estimated Cost Recovery to Response Account	\$0.3	\$0.3
Amount of Prevention Program Under-Funded	\$0.0	\$0.0
Ending Balance of Response Fund	\$80.7	
Ending Balance of Response Account		\$50.7
Ending Balance of Prevention Account		\$12.3
Suspension and Reimposition Calculation	\$22.4	\$57.0

Fiscal Analysis for  
HCS CSS8215(RES)

	No Change From Existing Statute	HCS CSS8215 (RES) Entire Spill Reserve to Response Account
<b>Fiscal Year 1999</b>		
Beginning Balance of Response Fund	\$104.5	
Beginning Balance of Response Account		\$51.0
Beginning Balance of Prevention Account		\$29.1
Total .05 Surcharge Collected in FY99	\$22.4	
Total Response Surcharge Collected in FY99		\$4.5
Total Prevention Surcharge Collected in FY99		\$13.4
Interest Earned in FY99		\$2.5
Prevention & Response Prgm. All Agencies	\$15.2	\$15.2
Estimated Response Account Use	\$0.8	\$0.8
Estimated Cost Recovery to Response Account	\$0.3	\$0.3
Amount of Prevention Program Under-Funded	\$0.0	\$0.0
Ending Balance of Response Fund	\$88.8	
Ending Balance of Response Account		\$50.2
Ending Balance of Prevention Account		\$13.9
Suspension and Reimposition Calculation	\$28.8	\$54.9
<b>Total Prevention Program Underfunding</b>	<b>\$0.0</b>	<b>\$0.0</b>
<b>Total Response Account Surcharge Paid</b>	<b>\$122.5</b>	<b>\$9.7</b>
<b>Total Prevention Account Surcharge Paid</b>	<b>\$0.0</b>	<b>\$73.5</b>
<b>Total Surcharges Paid</b>	<b>\$122.5</b>	<b>\$83.2</b>
<b>Total Surcharge Savings to Payor (5 Years)</b>	<b>\$0.0</b>	<b>\$39.3</b>

# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO.** HCS CSSB 215 (RES)

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: An Act relating to oil and hazardous substances... BRU: Revenue Operations  
 Component: Oil & Gas Audit  
 Sponsor: Miller  
 Requestor: House Resources COMPONENT SERIAL NO. 115

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE FUND SOURCE:</b>	<b>-5,300.0</b>	<b>-10,000.0</b>	<b>-9,900.0</b>	<b>-9,500.0</b>	<b>-4,500.0</b>	<b>-9,500.0</b>
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**FUNDING:** (Thousands of Dollars)

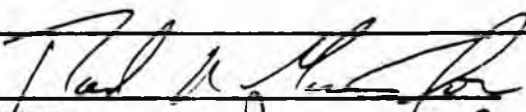
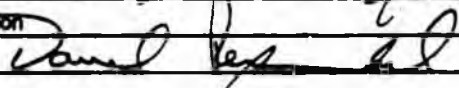
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

**ANALYSIS:** (Attach a separate page if necessary.)  
 Revenue reduction estimates are based on production and tax revenues included in the *Revenue Sources Book, Fall 1993*, and expenditure analysis provided by the Department of Environmental Conservation. The fiscal note represents a simple mathematical calculation based on those estimates.

Prepared by: Leslie K. Stewart  Phone: 276-1363 ext. 271  
 Division: Oil & Gas Audit Division Date: April 25, 1994  
 Approved by Commissioner: Darrel J. Rexwinkel  Date: April 25, 1994  
 Agency: Revenue

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**HOUSE CS FOR CS FOR SENATE BILL NO. 215(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): SENATORS MILLER, Kelly**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to oil and hazardous substances; redesignating the oil and  
2 hazardous substance release response fund and relating to it; repealing the  
3 Citizens' Oversight Council on Oil and Other Hazardous Substances and the  
4 authority in law by which marine highway vessels may be designed and  
5 constructed to aid in oil and hazardous substance spill cleanup in state marine  
6 water using money in the oil and hazardous substance release response fund and  
7 repealing the authority of the Department of Environmental Conservation to levy  
8 and collect fees for review of certain submissions related to oil; altering  
9 requirements applicable to liens for recovery of state expenditures related to oil  
10 or hazardous substances; terminating the nickel-per-barrel oil conservation  
11 surcharge; levying and collecting two new oil surcharges; and providing for the  
12 suspension and reimposition of one of the new surcharges."

HELD

AMENDMENT #16

Reappropriation bill 8-LS8001\D  
5/2/94

**New Section: The unexpended and unobligated balance of the appropriation made in Section 13, Chapter 79, SLA 93, page 5, lines 6-12 (Department of Transportation and Public Facilities - road connecting the Seward Highway and the Port o. Whittier, \$15,000,000) is repealed.**

8-GH2040J  
Cramer/Utermohle  
5/2/94

**CS FOR HOUSE BILL NO. 455(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

Offered:  
Referred:

Sponsor(s): **HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act making and amending operating and capital appropriations and ratifying**  
2 **certain state expenditures; and providing for an effective date."**

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

4 \* **Section 1.** The sum of \$1,621,400 is appropriated to the Office of the Governor, office  
5 of management and budget, to pay costs resulting from salary adjustments required to comply  
6 with 29 U.S.C. 201-219 (Fair Labor Standards Act) for the fiscal year ending June 30, 1993,  
7 and the fiscal year ending June 30, 1994, from the following sources:

8	Capital improvement project	
9	receipts	\$665,600
10	General fund	955,800

11 \* **Sec. 2.** The sum of \$1,694,900 is appropriated from the general fund to the Department  
12 of Administration for longevity bonus payments for the fiscal year ending June 30, 1994.

13 \* **Sec. 3.** The sum of \$466,000 is appropriated from the general fund to the Department  
14 of Administration, public defender agency, for increased operating costs for the fiscal year

1 ending June 30, 1994.

2 \* Sec. 4. The sum of \$554,700 is appropriated from the general fund to the Department  
3 of Administration, office of public advocacy, for operating costs due to increased caseload for  
4 the fiscal year ending June 30, 1994.

5 \* Sec. 5. The sum of \$100,000 is appropriated from the general fund to the Department  
6 of Administration, division of personnel, office of equal employment opportunity, for costs  
7 of arbitration cases for the fiscal year ending June 30, 1994.

8 \* Sec. 6. The sum of \$18,000 is appropriated from the general fund to the Department of  
9 Administration, division of personnel, office of equal employment opportunity, for cost of  
10 grievance awards for the fiscal year ending June 30, 1994.

11 \* Sec. 7. The sum of \$60,000 is appropriated from the general fund to the Department of  
12 Administration, division of personnel, office of equal employment opportunity, for costs  
13 relating to a salary survey and geographic differential study, ordered by the court, for the  
14 fiscal year ending June 30, 1994.

15 \* Sec. 8. The sum of \$1,752,400 is appropriated from the general fund to the Department  
16 of Administration for additional lease costs in the leasing program for the fiscal year ending  
17 June 30, 1994.

18 \* Sec. 9. (a) The sum of \$1,219,376 is appropriated from the general fund to the  
19 Department of Law to pay judgments and claims against the state for the fiscal year ending  
20 June 30, 1994.

21 (b) The sum of \$50,000 is appropriated from the general fund to the Department of  
22 Education for legal fees related to pupil transportation issues in the case of Ten Eyck v. State  
23 (4FA-93-213 CIV), for the fiscal year ending June 30, 1994.

24 (c) The sum of \$77,145.55 is appropriated from the international airports revenue fund  
25 (AS 37.15.430) to the Department of Transportation and Public Facilities to pay the award of  
26 court costs and fees relating to Birch v. State, for the fiscal year ending June 30, 1994.

27 (d) The sum of \$152,000 is appropriated from the general fund to the Department of  
28 Environmental Conservation, division of environmental quality, for the Noey v. State  
29 settlement for the fiscal year ending June 30, 1994.

30 (e) The sum of \$492,147 is appropriated from the mental health trust income account  
31 (AS 37.14.011) to the Department of Law for attorney fees related to Weiss v. State for the

1 fiscal year ending June 30, 1994.

2 \* Sec. 10. The sum of \$462,379 is appropriated from the general fund to the Department  
3 of Law to pay the award of court costs and fees against the state relating to the  
4 reapportionment case of Southeast Conference v. Hickel (1JU-91-1608 CIV), for the fiscal  
5 year ending June 30, 1994.

6 \* Sec. 11. The sum of \$142,607 is appropriated from the dividend fund (AS 43.23.045)  
7 to the Department of Revenue, permanent fund dividend division, to cover additional costs of  
8 printing and delivering the 1994 permanent fund dividend applications, for the fiscal year  
9 ending June 30, 1994.

10 \* Sec. 12. The sum of \$3,195,000 is appropriated from Alaska Permanent Fund  
11 Corporation receipts to the Department of Revenue, Alaska Permanent Fund Corporation, to  
12 cover additional equity management fees and international custody fees for the fiscal year  
13 ending June 30, 1994.

14 \* Sec. 13. The sum of \$1,500,000 is appropriated from the general fund to the Department  
15 of Education for the public school foundation program (AS 14.17) for increased student  
16 enrollment for the fiscal year ending June 30, 1994.

17 \* Sec. 14. The overexpenditure by the Department of Education reflected by the negative  
18 balance of the account within the appropriation identified by the Alaska State Accounting  
19 System AR number set out below, is ratified. The appropriation to which the expenditure  
20 should have been charged is amended by the addition of the amount set out after the AR  
21 number and the appropriation from which this expenditure was actually paid is amended by  
22 increasing it by the amount paid:

23 AR 17837 Federal vocational education grants \$45

24 \* Sec. 15. The sum of \$241,400 is appropriated from the dividend fund (AS 43.23.045)  
25 to the Department of Health and Social Services for the permanent fund dividend hold  
26 harmless program, for the increased number of eligible recipients for the fiscal year ending  
27 June 30, 1994.

28 \* Sec. 16. The sum of \$7,674,500 is appropriated to the Department of Health and Social  
29 Services, division of medical assistance, for judgments and settlements against the state related  
30 to medical assistance claims for the fiscal year ending June 30, 1994, from the following  
31 sources:

1	Federal receipts	\$2,826,900
2	General fund	4,847,600

3 \* Sec. 17. The sum of \$5,045,000 is appropriated to the Department of Health and Social  
4 Services, division of medical assistance, for additional expenditures for claims relating to the  
5 fiscal year ending June 30, 1993 and the fiscal year ending June 30, 1994, from the following  
6 sources:

7	Federal receipts	\$2,522,500
8	General fund	2,522,500

9 \* Sec. 18. The sum of \$1,842,500 is appropriated to the Department of Health and Social  
10 Services, division of medical assistance, for payment to Charter North, South Peninsula  
11 Hospital, and North Star Hospital for claims processing and for eligible disproportionate share  
12 claims under the Medicaid program for the fiscal year ending June 30, 1994, from the  
13 following sources:

14	Federal receipts	\$921,200
15	General fund/mental health trust	921,300

16 \* Sec. 19. The sum of \$3,567,400 is appropriated from federal receipts to the Department  
17 of Health and Social Services, division of medical assistance, for increased Indian Health  
18 Service billings to eligible Medicaid recipients for the fiscal year ending June 30, 1994.

19 \* Sec. 20. The sum of \$887,500 is appropriated from the general fund to the Department  
20 of Health and Social Services, division of medical assistance, for increased general relief  
21 medical program growth for the fiscal year ending June 30, 1994.

22 \* Sec. 21. The sum of \$6,000,000 is appropriated from federal receipts to the Department  
23 of Health and Social Services, division of medical assistance, Medicaid state programs, for  
24 disproportionate share payments under the Medicaid program for Alaska Psychiatric Institute  
25 operations for the fiscal year ending June 30, 1994.

26 \* Sec. 22. The sum of \$238,700 is appropriated from the general fund to the Department  
27 of Health and Social Services, McLaughlin Youth Center, for increased personal services,  
28 contractual services, and supplies related to occupancy growth for the fiscal year ending  
29 June 30, 1994.

30 \* Sec. 23. The sum of \$41,900 is appropriated from the general fund to the Department  
31 of Health and Social Services, Johnson Youth Center, for increased personal services and

1 supplies related to occupancy growth for the fiscal year ending June 30, 1994.

2 \* Sec. 24. The funding sources for appropriations to the Department of Health and Social  
3 Services set out in sec. 40, ch. 65, SLA 1993, page 51, lines 13 and 14, are amended as  
4 follows, to reflect uncollectible program receipts from laboratory services for the fiscal year  
5 ending June 30, 1994:

6	General Fund Receipts	<u>122,527,300</u>	[122,203,600]
7	General Fund/Program Receipts	<u>13,447,600</u>	[13,382,600]

8 \* Sec. 25. (a) Section 38, ch. 65, SLA 1993, page 22, line 31, is amended to read:

9		APPROPRIATION	GENERAL	OTHER
10		ITEMS	FUND	FUNDS
11	Institutions and Administration	<u>31,681,400</u>	<u>17,353,900</u>	<u>14,327,500</u>
12		[31,056,800]	[22,729,300]	[8,327,500]

13 (b) Section 38, ch. 65, SLA 1993, page 23, line 4, is amended to read:

14 ALLOCATIONS

15	Alaska Psychiatric	
16	Institute	<u>16,692,400</u>
17		[16,067,800]

18 \* Sec. 26. The sum of \$400,000 is appropriated from mental health receipts in the general  
19 fund to the Department of Health and Social Services for Harborview Development Center,  
20 to cover costs related to certification deficiencies and heating for the fiscal year ending  
21 June 30, 1994.

22 \* Sec. 27. The sum of \$37,500 is appropriated from the general fund to the Department  
23 of Military and Veterans' Affairs for additional costs of the veteran's death gratuity program  
24 for the fiscal year ending June 30, 1994.

25 \* Sec. 28. The sum of \$4,643,800 is appropriated from the general fund to the Department  
26 of Natural Resources for additional fire suppression costs for the fiscal year ending June 30,  
27 1994.

28 \* Sec. 29. The expenditures by the Department of Natural Resources reflected by negative  
29 balances of accounts within the appropriations identified by the Alaska State Accounting  
30 System AR numbers set out below are ratified. The appropriations to which these  
31 expenditures should have been charged are amended by the addition of the amount set out

1 after each AR number and the appropriations from which these expenditures were actually  
2 paid are amended by increasing them by the amount paid:

- 3 (1) AR 39290-89 Parks construction bonds \$5,958.16
- 4 (2) AR 36734-89 Porcupine Burn access road 377.33
- 5 (3) AR 36736-89 Tok/Eagle access road 905.26

6 \* Sec. 30. The sum of \$20,000 is appropriated from the fish and game fund (AS 16.05.100)  
7 to the Department of Fish and Game for additional vendor compensation for king salmon tags  
8 for the fiscal year ending June 30, 1994.

9 \* Sec. 31. Section 38, ch. 65, SLA 1993, page 29, line 21, is amended to read:

10	APPROPRIATION	GENERAL	OTHER
11	ITEMS	FUND	FUNDS
12 Subsistence	3,014,900	<u>1,746,712</u>	<u>1,268.188</u>
13		[1,686,200]	[1,328,700]

14 \* Sec. 32. The expenditures by the Department of Fish and Game reflected by negative  
15 balances of accounts within the appropriations identified by the Alaska State Accounting  
16 System AR numbers set out below are ratified. The appropriations to which these  
17 expenditures should have been charged are amended by the addition of the amount set out  
18 after each AR number and the appropriations from which these expenditures were actually  
19 paid are amended by increasing them by the amount paid:

- 20 (1) AR 41502-88 Commercial fisheries \$101,472.03
- 21 (2) AR 41542-89 Rockfish poster account 7,299.09
- 22 (3) AR 41568-89 Groundfish data 1,685.00
- 23 (4) AR 41556-90 NOAA nonobservable mortality project 1,080.56
- 24 (5) AR 41573-89 Stream classification 675.53
- 25 (6) AR 42838-85 Northern employee housing 5,722.79
- 26 (7) AR 42840-85 Bunkhouse maintenance 167.29
- 27 (8) AR 42808-86 Anadromous fish study 42.59
- 28 (9) AR 41754-87 USFS Marx Creek 60.25
- 29 (10) AR 42706-87 Terror Lake Aqua Monitoring 68.40
- 30 (11) AR 42750-87 Juneau watershed study 1,300.00
- 31 (12) AR 41701-88 Fisheries rehabilitation & enhancement 5,245.31

	WORK DRAFT	WORK DRAFT	WORK DRAFT
1	(13)	AR 41759-88 Alaska/Japan mariculture	0.45
2	(14)	AR 42878-88 Tuluksak study	4.06
3	(15)	AR 41701-89 Fisheries rehabilitation & enhancement	43,666.11
4	(16)	AR 41701-90 Fisheries rehabilitation & enhancement	112.24
5	(17)	AR 42734-91 Big Lake hatchery	49,722.19
6	(18)	AR 42739-91 Kodiak sockeye enhancement	122.08
7	(19)	AR 41645-85 APA Susitna hydro project	3.57
8	(20)	AR 41645-86 APA Susitna hydro project	64.13
9	(21)	AR 42704-86 National Park Service/Naknek	3,519.90
10	(22)	AR 42816-85 APA Susitna hydro project	3,795.44
11	(23)	AR 41945-85 Bear tooth aging	469.62
12	(24)	AR 41950-85 Steller sea pup	77.99
13	(25)	AR 41952-85 Marine mammals - NOAA	3.48
14	(26)	AR 41961-85 Brown bear tooth aging	0.30
15	(27)	AR 41951-86 Milne Point caribou study	2.35
16	(28)	AR 41942-86 Pinniped-National Marine Fisheries Service	2,296.91
17	(29)	AR 41949-86 Milne Point caribou study	0.58
18	(30)	AR 41966-88 US/state refuge coordinator	11,195.00
19	(31)	AR 42716-86 USF&W cooperative Arctic caribou	225.76
20	(32)	AR 42824-86 Regional habitat management guide	33.38
21	(33)	AR 42051-88 Office of the commissioner	6,167.99
22	(34)	AR 42726-85 Encumbered administration	7,260.00
23	(35)	AR 42846-85 APA - administrative support	135.93
24	(36)	AR 42864-86 Department of Transportation RSA	9,826.05
25	(37)	AR 42401-90 Subsistence	13,000.00
26	(38)	AR 42450-88 Intergovernmental personnel act agreement -	
27		National Park Service	18,461.24
28	(39)	AR 42442-86 Regional habitat management guide	102.54
29	(40)	AR 42815-88 UAA - Tongass resource use co-op study	143.43
30	(41)	AR 42543-86 Oil and gas leasing program	84.37
31	(42)	AR 42544-86 Alaska coastal management plan	126.77

1	(43)	AR 42553-87 R2 instream flow	2,136.34
2	(44)	AR 42559-87 Goldstream fisheries - Tanana Chiefs, Inc.	1,000.00
3	(45)	AR 42743-88 Habitat fisheries restoration	12,156.04
4	(46)	AR 42547-88 Monitoring compliance	3.00
5	(47)	AR 42541-89 Alaska coastal management program	0.44
6	(48)	AR 42836-86 APA Susitna and Bradley Lake hydro project	90.87
7	(49)	AR 42843-86 Habitat coal mining	36.47
8	(50)	AR 41851-86 Data processing	2,278.06
9	(51)	AR 42853-86 Plan and design automated budget system	26.21
10	(52)	AR 42855-86 CFEC RSA - Department of Law	1.73

\* Sec. 33. Section 19, ch. 79, SLA 1993, page 19, line 20, is amended to read:

	APPROPRIATION	GENERAL
	ITEMS	FUND
14	Bristol Bay Salmon - <u>Ugashik</u> [WOOD] River smolt	
15	<u>45,000</u>	<u>45,000</u>
16	[55,000]	[55,000]

\* Sec. 34. The sum of \$331,900 is appropriated from program receipts in the general fund to the Department of Public Safety, division of motor vehicles, for additional data processing chargeback costs for the fiscal year ending June 30, 1994.

\* Sec. 35. The sum of \$70,400 is appropriated from the general fund to the Department of Public Safety for increased operating costs for the contract jails program for the fiscal year ending June 30, 1994.

\* Sec. 36. The funding sources for appropriations to the Department of Transportation and Public Facilities set out in sec. 40, ch. 65, SLA 1993, page 54, lines 11 and 12, are amended as follows, to reflect uncollectible program receipts from rural airport landing fees:

26	General Fund Receipts	<u>94,679,600</u> [93,129,600]
27	General Fund/Program Receipts	<u>3,376,200</u> [4,926,200]

\* Sec. 37. The sum of \$34,702 is appropriated from the International Airports Revenue Fund (AS 37.15.430) to the Department of Transportation and Public Facilities to pay public employee's retirement costs for an employee for the fiscal years ending June 30, 1991, June 30, 1992, and June 30, 1993, as required by stipulated settlement in a court case.

1 \* Sec. 38. The sum of \$1,631,300 is appropriated from the general fund to the Department  
2 of Corrections for increased costs for the prisoner health care program for the fiscal year  
3 ending June 30, 1994.

4 \* Sec. 39. The sum of \$85,100 is appropriated from the general fund to the Department  
5 of Corrections for an arbitration settlement related to a reinstated employee for the fiscal year  
6 ending June 30, 1994.

7 \* Sec. 40. The sum of \$39,500 is appropriated from the general fund to the Department  
8 of Corrections for costs related to a court-appointed monitor for the fiscal year ending  
9 June 30, 1994.

10 \* Sec. 41. The sum of \$200,000 is appropriated from the general fund to the Department  
11 of Corrections for additional beds at Spring Creek Correctional Center for the fiscal year  
12 ending June 30, 1994.

13 \* Sec. 42. The sum of \$73,000 is appropriated from the general fund to the Department  
14 of Corrections for additional legal costs for the fiscal year ending June 30, 1994.

15 \* Sec. 43. (a) Section 120, ch. 41, SLA 1993, is amended to read:

16 Sec. 120. The sum of \$4,865,400 [~~\$5,553,400~~] is appropriated from the general  
17 fund to the Department of Corrections, statewide operations, for the fiscal year ending  
18 June 30, 1993.

19 (b) The sum of \$688,000 is appropriated from the general fund to the Department of  
20 Corrections for community residential center beds for the fiscal year ending June 30, 1994.

21 \* Sec. 44. The sum of \$36,708 is appropriated from the general fund to the Department  
22 of Environmental Conservation to reimburse the United States Environmental Protection  
23 Agency for state expenditures of federal receipts during the period from June 28, 1985 through  
24 January 31, 1988 that a federal audit has determined to be ineligible for federal participation  
25 and to pay interest and penalties expected to accrue before the reimbursement.

26 \* Sec. 45. The sum of \$220,000 is appropriated from the general fund to the University  
27 of Alaska for costs for installation of an emergency water well for the fiscal year ending  
28 June 30, 1994.

29 \* Sec. 46. The following amounts are appropriated from the general fund to the following  
30 departments for the fiscal year ending June 30, 1994, to pay miscellaneous claims and  
31 staledated warrants:

1	DEPARTMENT	APPROPRIATION
2	Administration	\$ 163,152
3	Education	2,757
4	Environmental Conservation	50
5	Health and Social Services	119,300
6	Labor	188
7	Commerce and Economic Development	15,495
8	Military and Veterans' Affairs	38,020
9	Fish and Game	853
10	Transportation and Public Facilities	5,288
11	Corrections	2,100
12	Public Safety	2,318
13	Law	689

14 \* Sec. 47. The sum of \$35,000 is appropriated from the general fund to the Department  
 15 of Administration, division of personnel/OEEO, for costs of ethics complaints [grievance  
 16 awards] for the fiscal year ending June 30, 1994. INVESTIGATIONS

17 \* Sec. 48. The expenditures by the Department of Transportation and Public Facilities  
 18 reflected by negative balances of accounts within the appropriations identified by the Alaska  
 19 State Accounting System AR numbers set out below are ratified. The appropriations to which  
 20 these expenditures should have been charged are amended by the addition of the amount set  
 21 out after each AR number and the appropriations from which these expenditures were actually  
 22 paid are amended by increasing them by the amount paid:

23	(1)	AR 57702-85 International Airport Revenue Fund	
24		Rate Implementation	\$13,759.61
25	(2)	AR 57704-85 Fairbanks Planning Support	503.75
26	(3)	AR 57705-85 School Facility Survey	73,727.97
27	(4)	AR 57707-85 Alaska Railroad	1,576.73
28	(5)	AR 57708-85 Northern Administrative Services - Data	
29		Processing	34,841.41
30	(6)	AR 57714-85 Alaska Oil and Gas Commission	4,498.85
31	(7)	AR 57718-85 Chilkat State Park Road	1,544.40

	WORK DRAFT	WORK DRAFT	WORK DRAFT
1	(8)	AR 57729-85 Erosion Control	1,706.19
2	(9)	AR 57748-85 Anchorage and Fairbanks International	
3		Airport Accounts	10,736.07
4	(10)	AR 57750-85 Fiscal Year 1985 Bunkhouse Maintenance	2,781.08
5	(11)	AR 57752-85 Cook Inlet Pretrial	255.23
6	(12)	AR 57755-85 Study Storm Damage	20,580.17
7	(13)	AR 57709-86 Accident Status Report	1,415.67
8	(14)	AR 57714-86 International Airport Revenue Fund Rate	
9		Implementation	7.80
10	(15)	AR 57722-86 Project 2 Graphics Fair	900.00
11	(16)	AR 57730-86 Museum Heating System	20,010.86
12	(17)	AR 57739-86 Maintenance and Operations Contract Records	419.59
13	(18)	AR 57743-86 Thanksgiving Day Storm	20,495.95
14	(19)	AR 63358-86 Alaska Avalanche and Fire	20.21
15	(20)	AR 63423-86 Parks Road	0.84
16	(21)	AR 63427-86 Montana Creek Trespass	0.67
17	(22)	AR 63450-86 James Hoff v. State of Alaska	1.14
18	(23)	AR 63678-86 Data and Word Processing	29,038.09
19	(24)	AR 63802-86 Fiscal Year 1986 Bunkhouse Maintenance	980.56
20	(25)	AR 57721-87 Second Street Parking Lot	823.91
21	(26)	AR 63360-87 Accident Statistics	1,014.77
22	(27)	AR 63884-87 Anchorage Pioneer Home Boiler	40,000.00
23	(28)	AR 58864-88 Contractual Services	218.75
24	(29)	AR 58523-89 Fairbanks Natural Resources Building	
25		Maintenance	1,649.63
26	(30)	AR 62070-90 Southeast Region Housing Repair	800.00
27	(31)	AR 62074-90 Productivity Improvement	2,014.73
28	(32)	AR 62075-90 Facilities Maintenance and Operations	
29		Project	422.89
30	(33)	AR 62835-90 Central Employee Housing Operations	179.91
31	(34)	AR 58467-91 Maintenance and Operations Heavy Duty	

1		Mechanic	844.00
2	(35)	AR 63330-92 Design and Construction Support Maintenance	
3		and Operations Facilities	5.40
4	(36)	AR 63346-92 Yupik Museum Library Cultural	1,079.69
5	(37)	AR 65376-15 Snettisham Hatchery	55,442.01
6	(38)	AR 65015-15 Egegik Borrow Investigation	4,113.02
7	(39)	AR 65108-94 McLaughlin Youth Center	
8		Addition Remodel	25,034.50
9	(40)	AR 63468-92 University Plaza Mini Cafeteria	2,781.02
10	* Sec. 49. An amount equal to the fiscal year 1993 general fund receipts from the seafood		
11	marketing assessment under AS 16.51.120, less the amount of those receipts that were		
12	expended or obligated for expenditure during fiscal year 1993, is appropriated from the		
13	general fund to the Alaska Seafood Marketing Institute for marketing Alaska seafood products		
14	for the fiscal year ending June 30, 1994.		
15	* Sec. 79. The expenditures by the Department of Public Safety reflected by negative		
16	balances of accounts within the appropriations identified by the Alaska State Accounting		
17	System AR numbers set out below are ratified. The appropriations to which these		
18	expenditures should have been charged are amended by the addition of the amount set out		
19	after each AR number and the appropriations from which these expenditures were actually		
20	paid are amended by increasing them by the amount paid.		
21	(1)	AR 46551-87 Fire Prevention Operations	\$10,371.99
22	(2)	AR 46558-86 Fire Service Training	.23
23	(3)	AR 46565-87 HSPA Federal Grants	.76
24	(4)	AR 46565-88 HSPA Federal Grants	1.96
25	(5)	AR 46565-89 HSPA Federal Grants	.60
26	(6)	AR 46625-90 AST Special Projects	5,315.44
27	(7)	AR 46639-86 AST Western States Information	698.72
28	(8)	AR 46688-85 AST Prisoner Transportation	4,845.39
29	(9)	AR 46696-89 AST Narcotics Task Force	3,269.68
30	(10)	AR 46696-90 AST Narcotics Task Force	3,888.30
31	(11)	AR 45745-90 Training Academy	110.00

1	(12)	AR 47021-88 FDEA Project	450.00
2	(13)	AR 47050-85 Fatal Accident (FARS)	32.79
3	(14)	AR 47111-85 RSA5048 Governor's Task Force	644.66
4	(15)	AR 47126-85 RSA4111 HSPA Child Restraint	320.00
5	(16)	AR 47151-86 RSA HSPA Administrative Revocation	4.66
6	(17)	AR 47164-85 RSA HSPA Public Information	261.75
7	(18)	AR 47164-86 RSA69007 HSPA Public Information	14.40
8	(19)	AR 47165-85 RSA HSPA 55 MPH Enforcement	4,459.96
9	(20)	AR 47166-86 RSA Legislative Security	6.03
10	(21)	AR 47167-87 RSA Trooper Housing	1,614.01
11	(22)	AR 47288-89 RSA Domestic Violence Training	300.00

12 \* Sec. 51. The sum of \$163,861 is appropriated from the general fund to the Department  
 13 of Corrections for settlement of the canine unit overtime litigation for the year ending June 30,  
 14 1994.

15 \* Sec. 52. The appropriations made in compliance with the program review procedures of  
 16 AS 37.07.080(h) to implement Trustee Council restoration projects for federal fiscal year 1994  
 17 set out in revised programs 18-4-9992 and 18-4-9990 lapse into the funds from which they  
 18 were appropriated on June 30, 1995.

19 \* Sec. 53. The expenditures by the Department of Administration reflected by negative  
 20 balances of accounts within the appropriations identified by the Alaska state accounting system  
 21 AR numbers set out below are ratified. The appropriations to which these expenditures should  
 22 have been charged are amended by the addition of the amount set out after each AR number  
 23 and the appropriations from which these expenditures were actually paid are amended by  
 24 increasing them by the amount paid:

25	(1)	AR 7082-91 Telecommunications Services	\$ 403.75
26	(2)	AR 7042-90 Computer Services	6,475.00
27	(3)	AR 3827-86 Information Services	26.54
28	(4)	AR 4568-86 Telecommunications Services	79.91

29 \* Sec. 54. The sum of \$50,000 is appropriated from the general fund to the Department  
 30 of Health and Social Services, division of family and youth services, to pay costs of  
 31 unbudgeted overtime under 29 U.S.C. 201 - 219 (Fair Labor Standards Act) for the fiscal year

1 ending June 30, 1994.

2 \* Sec. 55. The unexpended and unobligated balance of that portion of the appropriation  
3 made in sec. 38, ch. 65, SLA 1993, page 40, line 7, that is allocated on line 14, (Rural  
4 Development Grants - \$1,595,200) lapses into the general fund on June 30, 1995.

5 \* Sec. 56. The sum of \$430,000 is appropriated from the general fund to the Department  
6 of Administration for payment as a grant under AS 37.05.315 to the Municipality of  
7 Anchorage, Anchorage School District, for emergency structural roof repairs to Aurora  
8 Elementary School for the fiscal year ending June 30, 1994.

9 \* Sec. 57. The sum of \$447,130 is appropriated from the general fund to the Department  
10 of Education for additional district support for the Sitka School District for the fiscal year  
11 ending June 30, 1994, as a result of the impacts from the pulp mill closure and cancellation  
12 of the long-term timber contract.

13 \* Sec. 58. This Act takes effect immediately under AS 01.10.070(c).

Amendment # 12

Failed  
5-5

Sec. \_\_\_\_ The sum of <sup>\$100,000</sup>~~\$250,000~~ is appropriated from the Oil and Hazardous Substance Spill Response Fund to the Alaska Department of Environmental Conservation for contract research and development of monitoring for radionuclides and other contaminants in Alaska and the Arctic environment which may be transported to Alaska through the air, water, or food chain.

STATE OF ALASKA  
WALTER J. HICKEL, GOVERNOR**DEPT. OF ENVIRONMENTAL CONSERVATION****OFFICE OF THE COMMISSIONER  
410 WILLOUGHBY AVENUE, SUITE 105  
JUNEAU, AK 99801-1795**Phone: (907) 465-5050  
Fax: (907) 465-5070

April 29, 1994

**The Honorable Drue Pearce, Co-Chairman  
Senate Finance Committee  
The Capitol, Room 508  
Juneau, Alaska 99801****The Honorable Eileen MacLean, Co-Chairman  
House Finance Committee  
The Capitol, Room 507  
Juneau, Alaska 99801****Dear Senator Pearce and Representative MacLean,**

This letter is sent to you in conjunction with Steve Shropshire's letter from the Northern Forum regarding the need for an integrated monitoring program for radionuclides in the north to warn Alaskans about contaminants which may be harmful being transported to the state by air, water, or the food chain.

The Alaska Department of Environmental Conservation is working with the Northern Forum through the Environmental Health and Emergency Response Project, as well as the Arctic Environmental Protection Strategy, through both the Arctic Monitoring and Assessment Program (AMAP) and the Emergency Response working groups, to try to have a coordinated monitoring network and notification procedure established.

Our first effort has been to push with federal agencies to make funds for this effort available. To some extent, with Senator Stevens' help, we have been successful. However, we believe it is important to have some state financial capability to fill in the gaps in the federal system, and to make sure the system is tied both to our university, the environmental monitoring efforts of the Alaska Aerospace Development Corporation, and the emergency response efforts of ADEC and the Division of Emergency Services, DMVA.

Given current budget shortfalls, we cannot identify a source of funds for the full \$500,000 Mr. Shropshire requested, as was contemplated in the Northern Forum meeting. However, if the capital budget contained a \$250,000 line item from the Oil and Hazardous Substance Spill Response Fund to the Department of Environmental Conservation's Spill Technology Review Council, we can assure you that the Council, in advising the Department as it contracts use of this fund, will give special

Sen. Pearce and Rep. MacLean

Page Two

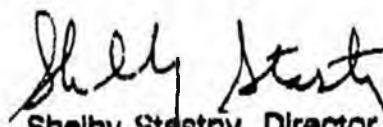
April 29, 1994

consideration to the needs to fully catalyze monitoring for radionuclides and other contaminants that may be reaching Alaska through air transport, the food chain, or water transport. In our projections for Response Fund spending this year, the \$250,000 was included in the operating budget but it does qualify as a capital budget item. It was not fully funded in the operating budget.

Mr. Shropshire's request, and the commitment our Governor made to the Northern Forum to help support this effort is important. If we have this funding available, we will do our best -- through already established processes -- to support this effort, with the intent of using federal funds first.

Thank you for your consideration.

Sincerely,



Shelby Stastny, Director  
Office of Management and Budget



John Sandor, Commissioner  
Alaska Dept. of Envir. Conservation

cc: Steve Shropshire, The Northern Forum

THE NORTHERN FORUM

9075616645

P. 02

# THE NORTHERN FORUM

April 29, 1994

OFFICE OF THE SECRETARIAT  
4101 University Drive, APU Carr-Gottstein Center, Suite 221  
Anchorage, Alaska 99506  
Phone: 907 561-3280 FAX: 907 561-6645  
Telex: 49817212 or 405297753 (NFORUMAK)  
Easylink Mailbox: 62989367

The Honorable Drue Pearce  
Senator  
Co Chair  
Senate Finance Committee  
State Capitol, Room 508  
Juneau, AK 99801-1182

The Honorable Eileen Maclean  
Representative  
Co Chair  
House Finance Committee  
State Capitol, Room 507  
Juneau, AK 99801-1182

Dear Senator Pearce and Representative Maclean:

I am writing you today on behalf of the board of directors of The Northern Forum to request your support for a \$500,000 appropriation to develop a comprehensive radiological monitoring network within the state of Alaska and a supplemental network in the Russian Far East.

The world community has been awakened by the real and imminent danger to both citizens and to the flora and fauna resulting from decades of nuclear explosions that now threaten our atmosphere, and from the irresponsible ocean dumping of radiation that threaten our common seas.

The aftermath of these ill practices has left behind real threats to the citizens of Russia and to those regions bordering the former Soviet Union, i.e. Alaska. The impact of these practices will be felt both today and in the future.

We believe that the efforts undertaken by the state of Alaska as the primary sponsor of The Northern Forum's Environmental Health and Emergency Response project are of great importance to the state of Alaska and to the Arctic community as a whole.

In this era of increased cooperation between Arctic regions, we have gained tremendous insights into the former Soviet Union's lax environmental practices during the Communist

**Membership Level I**

**Board of Directors**

**Chairman**

Governor Walter J. Millar  
State of Alaska, U.S.A.

**Vice Chairman**

Governor Sigbjorn Eriksen  
Representing the Regional  
Authority of Northern Norway

**Vice Chairman**

President Mikhail Y. Nikolayev  
Sakha Republic, Russia

Governor Damdinjavyn Sambuu  
Dornod Province, Mongolia

Governor Alexander S. Seleznev  
St. Petersburg Oblast, Russia

Governor Vladimir A. Biryukov  
Kamchatka Oblast, Russia

Governor Arnt Frieem  
County of S. Trondelag, Norway

Governor Viktor I. Ianchov  
Khabarovsk Krai, Russia

Governor Vyacheslav I. Krudyshev  
Komi Republic, Russia

Governor Yuri Komarovskiy  
Nenets Autonomous Okrug, Russia

Governor Evgeny Kravtsov  
Sakha'n Okrug, Russia

Governor Veld G. Mikhailev  
Magadan Oblast, Russia

Governor Alexander V. Nazarov  
Chukotka Autonomous Okrug, Russia

Governor Asko Oksa  
Lapland Region, Finland

Government Leader John Oelinger  
Yukon Territory, Canada

Governor G. Hui Shao  
Heilongjiang Province, China

Governor Nikolai M. Volkov  
Jewish Autonomous  
Oblast, Russia

Governor Takahiro Yokomichi  
Hokkaido Prefecture, Japan

**Membership Level II**  
Republic of South Korea

environmental practices during the Communist regime.

THE NORTHERN FORUM

9075616645

P.03

The Honorable Drue Pearce  
April 25, 1994  
Page 2

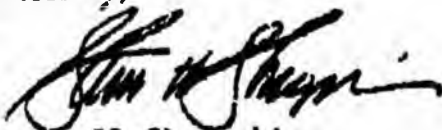
Unfortunately, history has a way of repeating itself. Therefore, it is incumbent upon the Arctic community, through the both federal and regional organizations such as The Northern Forum, to begin to protect ourselves including the indigenous peoples who rely upon the food chain for subsistence, by assessing the immediate danger and developing long monitoring and solutions to these problems.

These solutions include the following: establishment of internet ties for data sharing within Northern Forum member regions; identification and mapping of all known contaminated sites within the Russian Far East; identification of alternate methods of disposing of contaminated wastes including radioactive materials; establishment of a comprehensive monitoring network within those regions; and development of joint response plan.

These initiatives, some of which have already been funded by the federal government have all been supported by Governor Hickel as chairman of The Northern Forum and by the board of directors representing over 20 northern regions. The state of Alaska's assistance in this effort is essential in minimizing the long term health threats to the future generations of Alaskans.

I would be happy to answer any specific questions that you might have. I hope that we can count on funding support from the legislature on this important undertaking.

Sincerely,




Steven H. Shropshire  
Executive Director

passed  
N/O

# 13

Amendment ~~13~~

by Senator Taylor   
Representative Grussendorf

SLA 93

Chapter 79, Page 48 line 8 is amended to read:

Petersburg Water Access	[1,800,000]	1,700,000
and Improvement project at Cabin Creek (ED2)		

Add a new section:

The sum of \$100,000 is appropriated to the City of Wrangell as a grant for Zimovia Highway water and sewer laterals.

CITY OF WRANGELL, ALASKA

CAPITAL IMPROVEMENT REQUEST  
1994 LEGISLATIVE SESSION

ITEM DESCRIPTION: ZIMOVIA HIGHWAY WATER & SEWER EXTENSION

AMOUNT REQUESTED: PHASE I - \$2,450,000  
PHASE II - \$5,175,000

COUNCIL PRIORITY: NO. 1

PROJECT NARRATIVE:

The State of Alaska, DOT&PF, are in the process of completing the field surveys and commencing design for reconstruction of Zimovia Highway from Berger Street to the APC Mill.

Should the State DOT&PF be in a position to commence construction before the City has full funding for the sewer and water extension, it would be economically desirable to the public for crossings and a portion of the mains be installed with the roadway project.

In review of the roadway alignment, it is anticipated that a portion of both the sewer main and water main will be designed within the roadway embankment, in addition to the service crossings. The estimated cost of constructing that portion of the sewer and water main with service crossings within the roadway embankment is \$2,450,000, determined as follows:

Sewer:	Design.....	\$ 225,000
	Crossings.....	\$ 775,000
	Main.....	\$ 250,000
	Subtotal:	\$1,250,000
Water:	Design.....	\$ 100,000
	Crossings.....	\$ 75,000
	Main.....	\$1,025,000
	Subtotal:	\$1,200,000
Phase I - Total:		\$2,450,000

The City of Wrangell currently provides sewer and water for most homes and businesses within the village, and for the first few homes beyond the (existing) wastewater treatment plant at about One mile (south) Zimovia.

NO OBJ

#14

HOUSE FINANCE COMMITTEE AMENDMENT TO HB

Offered by Rep. Mark Hanley

Page 3, line 22, after "Health and Social Services" insert:

"and is contingent on the department requesting proposals for design, site preparation, utility hook-ups, and construction based on the new Alaska Psychiatric Institute being no larger than 72 beds, with a per bed cost of no more than \$300,000,"

passed  
5-4

#15

By: Therriault

**AMENDMENT**

Reappropriation bill 8-LS8001\D Cramer 5/2/94

Section 42, Page 9

Line 24-25: Delete "Department of Environmental Conservation to purchase laboratory equipment and supplies"

Add: "Department of Administration for payment as a grant under AS 37.05.315 to the City of Fairbanks for the completion of the Fairbanks Health Center project."

↓  
Regional

5/4/94

S-LS1107NT.2 ✓  
Chenoweth  
5/4/94

A M E N D M E N T 3

OFFERED IN THE HOUSE

BY REPRESENTATIVE MACLEAN

TO: HCS CSSB 215( )

Page 20, lines 27 - 29:

Delete all material and insert:

"(G) to pay or reimburse

(i) the storage tank assistance fund established in AS 46.03.410 for expenditures from that fund authorized by AS 46.03.410(b); and

(ii) the bulk fuel system storage tank emergency repair and upgrade program established and operated by the Department of Community and Regional Affairs;"