ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

2058 SSA SB 82 - SB 90 2.58

(viii) municipal office in Alaska; or

(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

(a) **[Effective January 1, 1981]** A resident individual is entitled to a tax credit not to exceed $100 for

(1) a contribution made in a calendar year to a person or organization for use exclusively

(A) for a political campaign for a candidate for

(i) President or Vice President of the United States, whether or not the candidate will be voted on in a primary election in Alaska;

(ii) United States senator from Alaska;

(iii) United States representative from Alaska;

(iv) governor or lieutenant governor of Alaska;

(v) the Alaska legislature;

(vi) delegate to an Alaska constitutional convention;

(vii) electoral confirmation as a judge or justice of a court in Alaska; or

(viii) municipal office in Alaska; or

(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

(b) A resident individual is entitled to a tax credit equal to 16 percent of the tax credit claimed by the individual on his federal income tax return for household and dependent care services necessary for his gainful employment.

(c) The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose. (§ 2 ch 1 SSSLA 1980; am § 9 ch 1 SSSLA 1980; § 2 ch 2 SSSLA 1980)

Effect of amendment. — Section 9, ch 1, SSSLA 1980, effective January 1, 1981, substituted "$100" for "$50" in the introductory language of subsection (a).

Effective date. — Section 13, ch. 1, SSSLA 1980, and § 11, ch. 2, SSSLA 1980, provide that this section take effect September 25, in accordance with AS 01.10.070(c). Section 12 of ch. 1 provides that this section is retroactive to January 1, 1980, and § 10 of ch. 2, provides that this section is retroactive to January 1, 1979.

Editor's note. — For legislative findings and purpose of the enacting legislation, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

February 4, 1981

The Honorable Vic Fischer
Chairman
Senate State Affairs Committee
Room 205 - Behrends Building
Juneau, Alaska

Re: Senate Bill No. 82

Dear Senator Fischer:

Senate Bill No. 82, an Act repealing the campaign contribution tax credit for individuals, was introduced in the Senate on February 14, 1981 and was referred to the Senate Finance Committee. Subsequently, an January 16, 1981 the Bill was given an additional referral to the Senate State Affairs Committee.

For the consideration of the Senate State Affairs Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary Jenkins, Director, Audit Division and Vincent Wright, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

Vincent Wright
Research Section
Department of Revenue

04-D2LH

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 82
Title An Act repealing the campaign contribution tax credit for individuals
Requested by Senate Finance Committee Date 1/22/81

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection And Management
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) - None

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) - None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There will be no effect on the administrative costs of the audit division from the repeal of the refundable credit provisions. This bill would repeal both the political contribution and child care credits.

IV. DATE 2/3/81 PREPARED BY [signature]
AGENCY Audit Division
PHONE 465-2320

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 82

Title Repealing the campaign contribution tax credit for individuals

Requested by Senate Finance Committee Date 1/21/81

II. FISCAL DETAIL

Agency Affected

Program Category Affected

BRU, Program, or Subprogram(s) Affected

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Savings to the State (Political contributions and child care.)		(1.63)	(2.8)	(2.8)		

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The aforementioned figures reflect the projected upward adjustment in the political contribution credit from $50 to $100.

The figures indicated the savings to the State as a result of repeal of the refundable credit portion of AS 43.20.013. Claims for refundable tax credits for 1979 and 1980 would be permitted and payments would be made on those claims.

IV. DATE 1/21/81 PREPARED BY Vincent D. Wright

AGENCY Revenue

PHONE 465-2391

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 14, 1981

SUBJECT: State campaign funding
(Work Order No. 12-1439)

TO: Senator Vic Fischer

FROM: Richard A. Bradley
Legislative Counsel

Nancy Groszek asked for a copy of the notes Jack made of his conversation with Jamie Love.

Because there are some gaps in the proposal, a statement of the premises of this kind of bill may be useful:

(1) Personal contributions are permitted. Corporate are not. What about unions? I assume that the corporate/union prohibition applies only if a candidate agrees to accept financing. If a candidate does not, then whatever would otherwise be permitted is acceptable.

(2) The proposal states flat limits. Are these for the primary and the general, for each, or what. The usual concept (the Federal and HB 492 at least) is matching after a threshold is reached, and 100 percent funding in the general.

(3) The latter concept of 100 percent funding in the general election is not stated as part of the request. Is this intentional?

(4) As noted, no thresholds for matching contributions are stated. Parker's bill (HB 492) used a concept of $15,000 raised from candidates in two-thirds of the state election districts in a campaign for governor/lieutenant governor. Do you want thresholds?

(5) What about governor/lieutenant governor candidacies. Suppose one accepts, the other does not. What happens?

(6) Funds raised before the act takes effect. ???

(7) Tax credits: available generally or denied to candidates not accepting limits.

(8) To what extent are political party expenditures under the limits? Are the political parties to be permitted back-door contributions?

HB 492 states a number of these concerns; a copy is enclosed. The bill was not enthusiastically received, in part because it seemed so impenetrable. It may be possible to trim it, based on a judgment of sorts that the mechanisms are unnecessary.

But Jamies's proposal is somewhat skeletal at this point.

I believe four states use public funding at this time: New Jersey (19:44A), Michigan (169.261), Minnesota (10A), and Wisconsin (citation unavailable).

RAB:ljb

Enclosures

Campaign legislation:

Ban corporate contributions -- Limit personal contributions to $500

As to personal contributions, at time candidate files he would have to elect to raise money on his own or opt for public financial support. Could opt out of receiving public financial support until he receives first payment, after which he is bound.

If candidate opts to accept support from public sources, he would have to stay within limits of

governor -- $400,000	state senate -- $50,000
lt. governor -- $200,000	state house -- $25,000

adjusted annually by APOC to reflect increases in cost of living (presumably for Anchorage) with 1980 as base.

Public financing would be payable by APOC, who would implement all this by regulation. The match would be limited to the first $100 received by the candidate from an individual. Amounts above $100 would not be matched. The match would be dollar-for-dollar.

Legitimate campaign expenses which would be matched would be those incurred until the tenth day after election. Thereafter, if there were money left over, a candidate would have to repay the overage to the state, to the extent of the contributions received.

Penalties for violation would track the penalties now applicable to violations of state campaign practices laws.

Jamie Love
617-628-4345
13 Adams Street
Somerville, MA 02145

of ALASKA

MEMORANDUM

TO: William A. Egan
Governor

DATE : December 6, 1973

FROM: H. A. Boucher
Lieutenant Governor

SUBJECT: Initiative Applications

During the past months, my office has received three initiative applications for possible placement on the 1974 primary and/or general election ballot. An outline of the contents of each petition follows.

Proposition #1

A PETITION FOR MOVING THE CAPITAL OF THE STATE OF ALASKA

This initiative bill calls for construction of a new Alaskan capital city at one of two or three sites nominated by a selection committee appointed by the Governor. Each site must include at least 100 square miles of donated and public land, in Western Alaska at least thirty miles from Anchorage and Fairbanks. The final selection will be made, after a committee report and hearings, by plurality vote in a general election. Construction must allow movement of offices to begin by October 1, 1980. Funding for committee activity and construction of capitol facilities is to be provided by the Legislature.

Proposition #2

A PETITION RELATING TO CONFLICT OF INTEREST OF PUBLIC OFFICIALS

This initiative, declaring as one of its purposes, "to discourage public officials from acting upon a private or business interest in the performance of a public duty," would require disclosure by State officials of their private financial interests. Officials covered by the initiative are the Governor, Lieutenant Governor, legislators, judges, department heads, and each member of a state commission or board. Also, each candidate for the state elected office must file a disclosure statement within twenty days of filing for office. Information required to be disclosed include the sources of all income received by the official during the preceding 12 months, the identity of each business in which he has an interest, and the identity and nature of each interest in real property. In addition to an initial disclosure, each of the covered officials would be required to file updating disclosure statements in each subsequent year that the official holds office. The initiative also allows an official to place his assets in a "blind trust" for the duration of his service as a public official. Here, full control of the

of the assets would be in the hands of a trustee. Automatic penalties are provided to operate against those who refuse or fail to file. Generally, any official who fails to file is guilty of a misdemeanor, and may not receive any salary, per diem or travel expenses until he complies. In addition, the initiative provides that any official who has not yet assumed his duties "shall forfeit his nomination to office if he has not complied."

Proposition #3

A PETITION RELATING TO CAMPAIGN CONTRIBUTIONS, EXPENDITURES AND THEIR LIMITATIONS

This initiative includes among its findings "that the people have a right to be informed of the sources of significant election campaign contributions and the manner in which they are spent." Thus, the initiative requires candidates for elective office in Alaska and political committees to file reports disclosing the sources and amounts of all campaign contributions and sets limits on spending for each state elective office. Further, campaign spending may only take place through the candidate. The disclosure requirements also apply to local elections, but no limits on spending are set for local elections. Statements are required to be filed periodically before an election so that the electorate receives the information prior to voting. The spending limits for state offices are as follows:

(a) $125,000 if the candidacy is for Governor or Lieutenant Governor, of which sum no more than $50,000 may be spent on the primary campaign.
(b) $8,000 if the candidacy is for the State Senate.
(c) $6,000 if the candidacy is for the State House of Representatives.

All amounts are exclusive of the candidates personal travel and living expenses. In addition to the reports required of candidates and political committees, individual contributors who make contributions in excess of $100 must file a report, and commercial advertisers who provide advertising for candidates and political committees must file statements disclosing the kind of advertising provided, and the amount received for the advertising. The initiative also provides for appointment by the Governor of a "watchdog committee" composed of members of each political party selected from names submitted by the parties, and of three independents from a list submitted by the League of Women Voters. The committee's general duty is to inspect the various required statements for possible violations. If a violation is found, the committee has the power to initiate legal action against a violator. In addition, any

person may bring an action to enforce the provisions of the initiative bill. The bill also establishes a general criminal penalty of a fine of not less than $1,000 nor more than $5,000 for any person who fails to file a statement required by the bill.

Following is an outline of requirements necessary to place these initiatives on a 1974 ballot.

1. In accordance with AS 15.45.140, the sponsors must file the initiative petition within one year from the date that the sponsors received notice from the Lieutenant Governor that the petitions were ready for delivery.

2. In accordance with AS 15.45.140, the petitions must be signed by qualified voters equal in number to 10 percent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the State. For each petition, 9,851 qualified signatures representing at least 13 election districts are required.

3. In accordance with AS 15.45.190, the petition cannot be placed on an election ballot unless the legislature has convened and adjourned after receipt of the petition. Therefore, the petition must be filed with my office prior to the legislature convening on January 21, 1974, for placement on the first statewide general, special, or primary election. In addition, 120 days must expire after the legislature adjourns before the initiative can be placed on the election ballot. Therefore, for these initiative petitions to be placed on the primary election ballot, the legislative sessions must adjourn by April 29, 1974.

My staff is expediting all matters pertaining to the petitions as quickly and efficiently as possible. We all recognize the necessity of remaining "on top" on this matter.

Keep your eyes open

Alaska State Legislature

Senator Vic Fischer • Pouch V • Juneau, Alaska 99811 • (907) 465-4954

MEMORANDUM

TO: Sen. Jalmar Kerttula
Senate President

FROM: Sen. Vic Fischer

DATE: Feb. 24, 1982

RE: Tax credit for political campaign contributions

SB 82, dealing with the subject, is in State Affairs.

We held extensive hearings on this matter last session and have been doing both interim and current in-depth anaylsis of the subject.

If and when HB 137, dealing with tax credits for political contributions, comes over from the House, I would appreciate you assigning it to State Affairs.

Thanks.

Campaign rebate faces budget ax

IRA/NARL

By JON MATTHEWS
Daily News reporter

JUNEAU — State rebates for Alaskans contributing to political campaigns, millions of dollars in state administrative costs and seven attorneys within the state Department of Law may be eliminated or reduced by the House Finance Committee today, according to lawmakers and other officials.

The cuts may be proposed in an afternoon meeting as part of the largest effort yet by the House majority coalition to reduce Gov. Jay Hammond's proposed state operating budget by nearly $300 million.

According to documents released by finance committee members Wednesday, the panel today may consider a $15.3 million cut from Hammond's $265 million request to run the Department of Revenue. The cut would leave the revenue agency with about $9 million less than what it received this year.

But a large share of the reduction — about $11 million — actually may be required by law due to a drop in oil taxes designated for specific state municipal assistance, lawmakers said.

Also under consideration will be a proposed $1.3 million reduction in Hammond's request of $15.2 million to run the Department of Law during the coming fiscal year — a move that could leave the department with about 1 percent less funding than it received this year.

Although proposals could change by this afternoon, specific cutbacks that may be recommended by finance subcommittees today include:

2-11-82

See Back Page, HOUSE

House panel ready to act on budget cuts

Continued from Page A-1

• Reduction or elimination of $100 state rebates to individual Alaskans contributing to political campaigns. The contribution program was started as a tax credit before lawmakers repealed the state's income tax and has been continued thereafter as a flat reimbursement to political contributors.

• A possible 15.8 percent reduction in Hammond's $3.4 million request for child support payment enforcement efforts by the state Department of Revenue. But the possible reduction would leave the program with about $400,000 more than the $2.6 million it received this year.

• A possible 56 percent reduction in the $1.3 million requested by Hammond to run the state's permanent fund savings account during the coming fiscal year.

• A 28 percent reduction in the $2.3 million requested by Hammond for administrative services within the Department of Revenue.

• A 34 percent decrease in the $1.2 million requested by Hammond for administration and support services in the Department of Law.

Ronald Lorenson, deputy state attorney general, said he had not been informed as of Wednesday afternoon about what specific cuts may be considered in his agency by the House panel.

Nam

M E M O

RE: SB 82

Alternative approach to public fiaancing of electénn campaigns.

An idea: state provides X dollars per registered voter in each part. (party!)

Require that each party provide for equal distribution of such funds per candidate: certain percentage for primary, for general election.

This will provide incentives for parties to register and recruit voters who will declare party preference.

Result:

Increased voter registration, increased role of parties, greater accountability of parties and candidates, etc., etc.

3-10-81 SB 82

Susan Clark, AAUW
- cost of day care - high cost
- need support in - area of child care

Solutions -
- grandparents / elderly - provide child care
- staff salaries, off hrs
- food subsidies
- incr. job sharing, part-time work - so parents can participate
- incentives for bus. to set daycare
- facilities in St off bldgs for child care
- care of elderly, not just children

Common Cause - supports pack. funding -

Dove M. Kull
- pay relatives for child care
(help take stand person of welfare ?)

Margaret Holland LWV
+ dox contribs for camp. contribs + daycare
- keep daycare credit on books in case dox reinstated -
→ in St off bldgs

LWV position on camp. financing.
. support pub. financing

82

-82 back door outlay info
publicly financed campaigns

any group could form - charge fees - info legislation
- & get refunds

C. Financing individuals vs. org.
only an indiv. who pd tax

E. Allow some amount of public financing

Dena Klein - Dept of Rev.
for Adm -

Repeal campaign & child care credit.
Gov. would consider another method

Child care credit -

1980 - applic 44K - 836 people
640 people for 79 - 30K

est. 400K

2

Gov. - may be some merit for public fin of camp. — would be willing to consider another method, other than credit against ~~un~~-existing taxes

Bradley - tax credits not best way.

SB 165 —

- organiz assembly to in capital — ~~prior~~.

July 4

1

3-3-81

Keith Speckamp

Pete Rouse

→ Tony Miller - re publ. fin of camp.
→ CRA — Child care

Terry Miller — will put staff on it. 1 week

SB 82

4/15/81

PUBLIC FINANCE

re public financing

Dick Bradley is on holiday

ELECTIONS

hears from us

Says the bill is really complex would take lots of time & research. I agree

Interim Project??? 2 ove. Nan

SB

86

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

FEB. 13, 1981 SENATE STATE AFFAIRS COMMITTEE REPORT

ON

CSSB 86 ENTITLED "AN ACT RELATING TO EXPENDITURE OF STATE MONEY FOR RELOCATION OF THE STATE CAPITAL, AND AMENDING THE LAW ADDED BY THE INITIATIVE POPULARLY KNOWN AS THE 'FRANK INITIATIVE'; AND PROVIDING FOR AN EFFECTIVE DATE."

BILL SUMMARY

The Committee Substitute for Senate Bill 86 would amend AS 44.06.196, popularly known as the "FRANK Initiative", in the following ways:

1) It specifies that the proposition that must be put before the voters prior to any expenditures for capital relocation would include all "bonded and appropriated" costs, rather than "bondable" costs;

2) The Legislature would determine the total cost to the state for the move; and

3) It removes the requirement that the new capital city be planned for a population of 30,000 people.

These amendments are necessary if the existing statutes for capital relocation are to be pursued.

BACKGROUND

In 1974 Alaskan voters approved an initiative to move the capital (AS 44.06.100 - 44.06.190). Two years later the same voters selected Willow as the new capital site. The New Capital Site Planning Commission was then established to plan the new city and to determine its cost (AS 44.06.200 - 44.06.260). By law, the new capital city had to be designed for a population of 30,000 people. Using some of the best talent in the country, the New Capital Site Planning Commission completed its work in time to put a bond proposition before the voters in 1978. The bond proposition amounted to more than $900,000,000 and the proposition was defeated.

At this same election in 1978, Alaskans approved what is popularly known as the "FRANK Initiative". This law required that before any state monies could be expended on the capital move, voters would have to approve the bondable costs of capital relocation. "Bondable costs" has since been interpreted to cover not just actual but all potential costs to the state, so that making realistic cost estimates has become virtually impossible.

PURPOSE OF COMMITTEE SUBSTITUTE SB 86

The committee feels that there has been an effective standoff on the capital relocation since the 1978 bond proposition. In view of the fact that Alaskans have voted for relocation, the standoff must be resolved.

The first step in resolving this issue is revising the "FRANK Initiative" to provide the basis for a workable solution. The committee substitute allows for a reasonable size capital move proposition to go before the voters. This proposition would allow the voters to vote on all actual projected costs of relocation by amending the term "bondable" to include all bonded and appropriated costs of relocation. This substitute also gives the Legislature the authority to determine the size and cost of the move. The Capital Site Planning Commission is not a practical vehicle for deciding the size and cost of the move, in that it is no longer a functioning body.

CSSB 86 maintains 1992 as the time to which costs of relocation are to be calculated, as in the original "FRANK Initiative"; SB 86 would have used 1986 for this purpose. In view of previous delays and projected schedules of site development, it is not likely that the Willow capital site would be first occupied until 1985 at the earliest, more likely not until 1986. Using a date prior to 1992 for cost calculations could readily leave the impression that only initial 1986 relocation costs would be subjected to voter approval, with higher costs being sneaked in immediately thereafter. Since the intent is to achieve a minimum cost move -- and to also be completely honest with the public -- full costs of capital relocation will be best reflected by using the 1992 date.

The State Affairs Committee is currently working on preparing legislation for the proposition to go before the voters. One

member of the committee questioned whether the proposition should give the comparative costs between maintaining the capital in Juneau versus the cost of moving to Willow. The committee is also analyzing all the alternatives, so that the move can have a minimal impact on Juneau. The intention of the committee is that this "FRANK Initiative" amendment would assure that a basis will exist for further action on "move legislation" during this session of the Legislature.

SECTION ANALYSIS

Section 1 amends AS 44.06.196 entitled "Capital Relocation Expenditures".

Lines 17 and 18 are amended to allow voters to vote on all bonded and appropriated costs of capital relocation. The existing law states that the voters must approve a bond issue of all bondable costs of relocation.

Lines 19, 20, and 21 state that the Legislature will determine all bonded and appropriated costs. The existing law states that the Capital Relocation Commission would determine the bondable costs to be voted on at an election.

In lines 27, 28, and 29 the language "having facilities equal to those provided by the present capital city and those required by the 1974 capital move initiative" has been deleted. This deletion removes the requirement that the new capital city be planned for a population of 30,000 people.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 86

Title Act relating to expenditure of state money [for capital relocation]

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Revenue

Program Category Affected _____

BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
	0	0	0	0	0	0

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE January 29, 1981 PREPARED BY Thomas R. Wilson

AGENCY Revenue

PHONE 465-2300

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

MEMORANDUM State of Alaska

TO: Hon. Jay S. Hammond
Governor

DATE: March 25, 1981

FILE NO: J-66-611-81 and
J-66-598-81

TELEPHONE NO: 465-3666

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By:
Rodger W. Pegues
Assistant Attorney General

SUBJECT: Capital move legislation, HB 351 and CSSB 86 (Rules, revised)

This responds to your request for an analysis of HB 351 and the latest version of CSSB 86 (Rules). The analysis is in two parts: first, a brief comparison of each bill to your five equirements, and second, an expanded discussion of the defects or problems.

1. True costs:

HB 351 covers costs of public facilities and improvements through the year 1992. It includes relocation costs but not indemnification costs.

CSSB 86 (Rules)(new version) covers only the "net cost of relocation."

2. Method of Determining Costs:

HB 351 provides for a joint interim committee of the legislature to determine costs. No objective measure is prescribed for costs or inflation.

CSSB 86 (Rules)(new version) provides for the Capital City Development Corporation to estimate costs. No objective measure is prescribed for costs or inflation.

3. Ballot Question, Specific Costs, and
4. Ballot Question, Jobs to be Relocated:

HB 351 provides only for voting on costs and does not require any information on specifics of the move to be on the ballot.

CSSB 86 (Rules)(new version) provides for voting on "net cost" and for stating the number of "central state employees" to be relocated from Juneau and Anchorage. However, it will cover only the gover-

nor's office, the legislature, and offices of the heads of the principal departments.

5. Laying the Issue to Rest:

Neither bill provides a mechanism for laying the issue to rest.

It appears that the most substantive defects are the failures to provide mechanisms in the bill for using objective measures of costs and inflation, for stating the specifics on the move on the ballot (the Senate version is much better but still lacking on this point), and for laying the issue to rest.

As you will recall, the Capital Site Planning Commission had an objective measure to follow in making its construction costs estimates. No objective measure was prescribed for inflationary effects. The result was a substantially low estimate of inflation. Hence, there is a need for an objective measure of costs to be prescribed for construction, relocation, and inflation to be prescribed by law if your goal of placing the true costs before the voters is to be achieved. This means the actual costs of facilities to be financed by the public.

The House bill does not require that information of the total costs to achieve a specific result be on the ballot. The Senate bill does require "net costs" to achieve a specific result to be placed on the ballot, but that result -- providing facilities to relocate only the tip of the state government iceberg -- would only provide for the "token move" against which you warned in your State of the State message. Your goals here, therefore, will not be achieved by either bill.

Additionally, neither bill provides a mechanism for laying the issue to rest, that is, neither bill provides for the ballot question to present the alternative of laying the issue to rest as opposed to voting to spend the money to move the capital.

Finally, HB 351 introduces a new problem. The entity which determines the costs to be placed on the ballot is carrying out the law on the subject. HB 351 provides for a special interim committee of the legislature to make that determination. As a general rule, however, a legislative agency or committee can be empowered to carry out the law only insofar as it is incidental to, or in support of, the exercise of the power to make law. Buckley v. Valeo, 424 U.S. 1, 137-142

(1976). Here, the committee will be carrying out the law not in support of the law making function, e.g., to make an appropriation by law, but rather, to develop information for the executive to place on an election ballot. */ The legislature, however, cannot write a law and then appoint one of its committee's to carry it out. State ex rel. Anderson v. State Office Bldg. Comm'n, 345 P.2d 674 (Kan. 1959); Book v. State Office Bldg. Comm'n, 149 N.E.2d 273 (Ind. 1958); Stockman v. Leddy, 129 Pac. 220 (Colo. 1912). We know of no exception for determining costs to be placed on a ballot. Under the constitution, ballot preparation is an executive function. Alaska Const., art. XI, §§ 2, 6, art. XIII, § 1. As a general rule, the legislature can share an executive function only to the extent that it is expressly authorized to do so by the constitution. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

The legislature itself may adopt a law which prescribes the terms of the ballot proposition, but it cannot appoint a committee of its members to do so. If prescribing the terms of the ballot is a legislative function, it cannot be exercised by a legislative committee. If it is an executive function, it cannot be performed by the committee. See People v. Tremaine, 252 N.Y. 27, 168 N.E. 817 (1929). Accordingly, as now written, HB 351 appears to be unconstitutional.

RWP/pjg

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*/ A committee could be appointed to develop the financial information for the legislature, and the legislature could then, by law, prescribe the figure to be placed on the ballot.

Capital Relocation Committee SB 86

610 Firewead Lane
Anchorage, Alaska 99503
Phone C/O 272-840[illegible] – 279-1925

To:
Sen Kerttula
Sen Fischer
Sen Pankworth
Sen Colletta
Sen Bradley
Sen Stimson

Rep Joe Hayes
Rep Sam Cotton

STURGULEWSKI
NOT KELLY
RODEY

Gentlemen,

Please forgive this "form type" letter with which I am enclosing the portion of Governor Hammonds address on the State of the State message. This portion deals with the capital move question.

As you will note on page 25, any attempt to amend the FRANK initiative or the original 1974 initiative in order to vote on the question of whether the capital should be moved to Anchorage, Fairbanks, Willow, or not at all, will almost certainly will be threatened with a veto by Governor Hammond.

On page 20, (yellow emphasis); I believe that statewide this might be true....though perhaps not so in the Cook Inlet area. In the event that you can amend the FRANK initiative, it would be almost a certainty if this requires bonded costs; which could be determined by a commission or corporation. Their report to the legislature naturally would say it will require a total of "X" numbers of dollars for the move...then it would be up to the legislature to determine as to how many dollars might be in cash appropriation or in necessary general obligation bonds, ..(but not revenue bonds)...the general obligation bonds would naturally have to go on the ballot.

If this goes on the ballot...which apparently is a must with Governor Hammond; the ballot proposition also should state the total cost of the move, with estimated land sales deducted from this total cost, the necessary G.O. bond costs (not revenue however), and also a statement as to what the costs will be to leave it in Juneau, of course based on the same longevity of the investment in Willow. This can all be determined by the Commission or Corporation, once they are funded and thence report back to the Legislature in the 1982 session.

On page 21: All of this should be in the report to the Legislature in the 1982 session.

Page 22: If necessary, all of this can be accomplished in the 1982 session, so that, if necessary it could be on the November 1982 ballot.

Namely to accomplish anything in this session, it would appear that the firstly important item is the amendment of the "FRANK" initiative, pretty much in line with Senate Bill 86 which is now in the Senate State Affairs Committee.

Thank you sincerely for your attention.

Very truly yours,

Frank W. Harris

Frank W. Harris
Chairman

MUNICIPAL SCHOOL CONSTRUCTION OBLIGATIONS DETER MANY AREAS FROM FORMING LOCAL GOVERNMENTS. REMOVAL OF THIS PENALTY, ACCOMPANIED WITH PROSPECTS OF EXPANDED MUNICIPAL ASSISTANCE, SHOULD PROVE ATTRACTIVE TO THOSE WISHING TO ACQUIRE LOCAL SELF-DETERMINATION.

ANOTHER CHALLENGE FOR THE 80'S IS RESOLUTION OF THE CAPITAL MOVE NOW STALEMATED BY TWO CONFLICTING PUBLIC VOTES. THOUGH 46,659 VOTED TO MOVE THE CAPITAL, 69,414 ASKED THAT BEFORE THE MOVE COMMENCED THEY BE ALLOWED TO VOTE ON THE BONDABLE COSTS, WHICH WERE THEN VOTED DOWN. TO RESOLVE THIS STALEMATE REQUIRES THAT THOSE CONFLICTING VOTES BE RECONCILED.

SOME ARGUE THAT NO LONGER DO MOST WANT TO MOVE THE CAPITAL TO WILLOW SOUTH. THEY ATTRIBUTE THIS IN PART TO GROWING AWARENESS OF PROSPECTIVE BUSINESS LOSSES INCURRED BY

ANCHORAGE, AS WELL AS JUNEAU, SHOULD THE CAPITAL MOVE. THEY ASSERT THAT IF ONLY 1,500 OF THE MORE THAN 4,000 ANCHORAGE EMPLOYEES MOVE IT COULD MEAN A LOSS OF 40 MILLION SALARY DOLLARS; THE VACATING OF MORE THAN 1,000 HOMES; LOST SHARED REVENUES ATTENDING POPULATION REDUCTION OF ABOUT 4,000 PEOPLE; PLUS LOSS OF MILLIONS OF DOLLARS SPENT BY THOSE WHO NOW FLY INTO ANCHORAGE RENTING CARS, HOTEL ROOMS AND BUYING MEALS WHILE ON GOVERNMENT BUSINESS. OTHERS DISAGREE. THEY URGE LEGISLATORS TO REPEAL THE FRANK INITIATIVE AND PROVIDE DIRECT FUNDING FOR THE MOVE. I DON'T PRESUME TO KNOW WHICH VIEW NOW PREVAILS. HOWEVER, INDISPUTABLY, VOTERS CLEARLY STATED THEY WISHED TO VOTE ON THE BONDABLE COSTS OF MOVING. I BELIEVE MOST ALASKANS STILL WISH TO VOTE ON THE COST WHETHER FUNDED BY BONDS OR DIRECT APPROPRIATION. SHOULD THAT WISH BE DENIED, THIS ISSUE WILL CONTINUE TO

FESTER. HEALING CAN START ONLY IF THE PEOPLE ARE ALLOWED TO VOTE ON THE TRUE COSTS OF A SPECIFIC, REALISTIC MOVE BASED ON FACTS, NOT PRESSURE GENERATED BY THOSE WHO WOULD STAND TO GAIN PERSONALLY BY EITHER THE MOVE OR THE STAT 'S QUO. THIS REQUIRES PROVIDING A COMMISSION WIT . FUNDING AND A BROADENED MANDATE TO DETERMINE FACTS. AFTER DOING SO, THIS QUESTION SHOULD BE PLACED UPON THE BALLOT: "SHALL X DOLLARS BE SPENT TO ACCOMMODATE THESE SPECIFIC ELEMENTS OF STATE GOVERNMENT IN WILLOW SOUTH?" THEN LISTED SHOULD BE THE NUMBER AND/OR CLASS (CENTRAL VS. REGIONAL) OF EMPLOYEES TO BE MOVED FROM BOTH ANCHORAGE AND JUNEAU. ABSENT SPECIFICS AS TO THOSE STATE EMPLOYEES WHO WOULD BE RELOCATED, IT IS IMPOSSIBLE TO PLAN FOR THE FUTURE OF NOT ONLY WILLOW SOUTH BUT ALSO ANCHORAGE AND JUNEAU. FOR EXAMPLE, WE SHOULD CONSOLIDATE STATE FUNCTIONS IN ANCHORAGE, BUT WHY TRY IF THEY'RE TO MOVE TO WILLOW SOUTH?

ON THE OTHER HAND, IF WE'RE NOT GOING TO MOVE THEM OR THEIR COUNTERPARTS FROM JUNEAU, VOTERS SHOULD BE AWARE. PAST VOTES HAVE BEEN ON THE PRESUMPTION THAT A FULL-FLEDGED, RATHER THAN TOKEN CAPITAL MOVE WAS TO OCCUR.

TO LAY THE ISSUE TO REST ONE WAY OR THE OTHER, THE BALLOT SHOULD STIPULATE THAT IF MOST SUPPORT FUNDING SUCH A SPECIFIC MOVE, WE MUST GET ON WITH IT. HOWEVER, IF REJECTED, ALL PRIOR INITIATIVES WOULD BE REPEALED.

MEANWHILE, I MUST ASSUME FROM THEIR VOTE TO MOVE A FUNCTIONAL CAPITAL TO WILLOW SOUTH THAT MOST ALASKANS STILL WISH TO DO SO. HOWEVER, I'M EQUALLY COMPELLED TO ASSUME BY THEIR LATER VOTE FOR THE FRANK INITIATIVE AND AGAINST $900 MILLION IN BONDABLE COSTS THAT THE MAJORITY OF ALASKANS STILL WISH TO VOTE ON FUNDING. I'M DETERMINED THEY BE SO PERMITTED. JUST AS SOME ARGUE THAT

BONDABLE COSTS TO ACCOMPLISH A CAPITAL MOVE AS OUTLINED IN THE FRANK INITIATIVE WERE EXCESSIVE, EFFORTS TO PROMOTE A NON-SPECIFIC, TOKEN CAPITAL MOVE WHICH IS LESS THAN FUNCTIONAL IN HOPE THAT SUBSEQUENT PRESSURES WILL PROMPT ADDITIONAL EXPANSION AND FUNDING NOT REQUIRING APPROVAL BY THE PEOPLE, WILL BE VIEWED WITH A JAUNDICED EYE.

THAT THIS ISSUE REMAINS UNRESOLVED IS NOT ONLY DIVISIVE BUT IN SOME RESPECTS LUDICROUS. THE ONLY WAY IT CAN BE RESOLVED TO THE SATISFACTION OF MOST IS BY A VOTE DESIGNED TO UNDO THE CURRENT STALEMATE. YET PRO-MOVERS RESIST SUCH ASSERTING: "WE VOTED TO MOVE IT, WHY VOTE AGAIN?" WHILE ANTI-MOVERS SAY: "WE VOTED AGAINST THE COSTS, WHY VOTE AGAIN?" BOTH SEEM FEARFUL THEY'LL LOSE NEXT TIME. RATHER THAN ACKNOWLEDGE THOSE FEARS OR START AN INITIATIVE DESIGNED TO RESOLVE THEM, MANY PREFER TO BLAME SOMEONE

ELSE: PERSONALLY, I GET A BIT TIRED OF THOSE COMPLAINING BECAUSE I'LL NOT BREAK THE LAW AND MOVE THE CAPITAL.

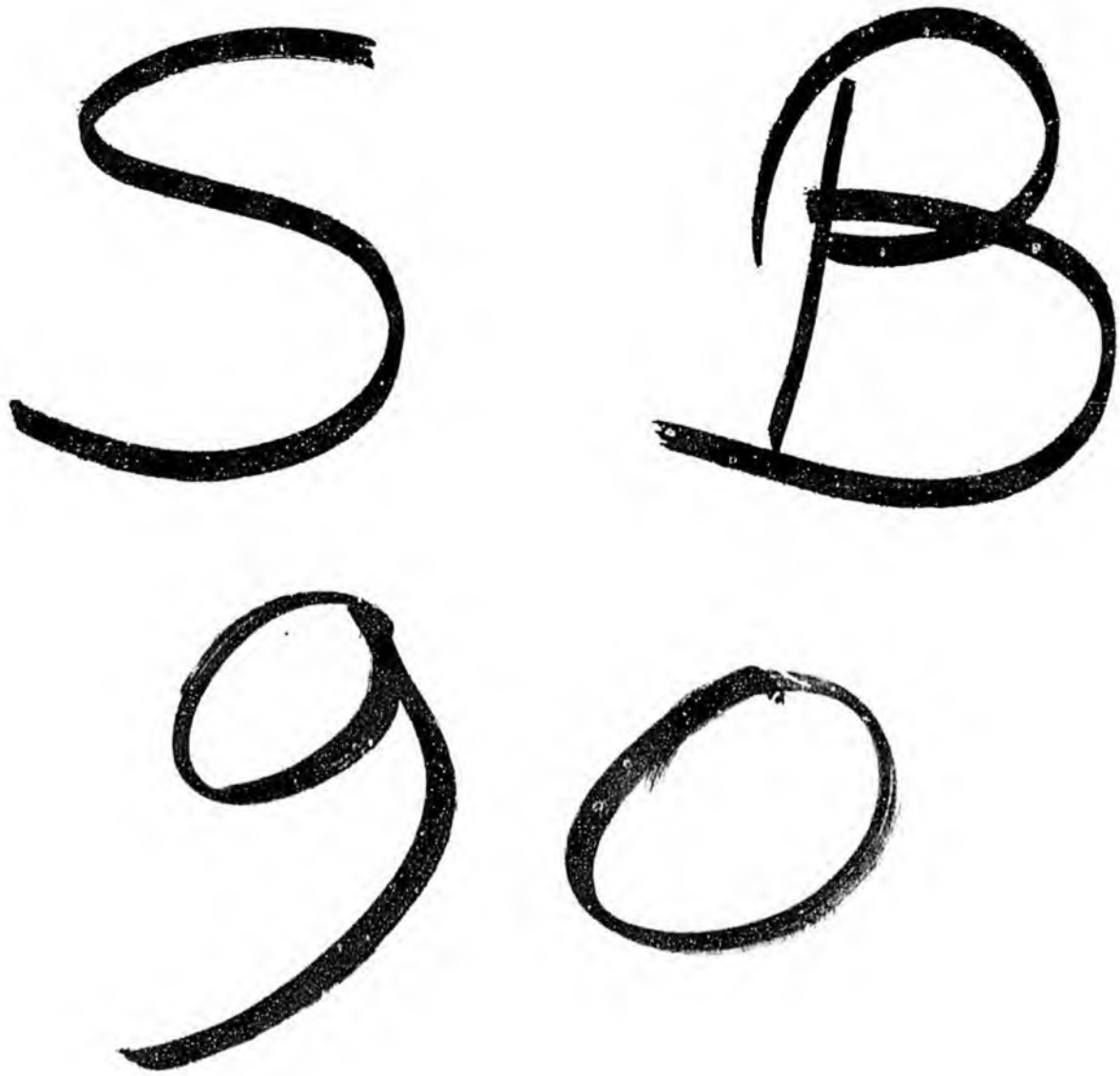
TO THOSE WHO WONDER WHY I'VE NOT PITCHED MY TENT IN WILLOW SOUTH, THERE'S ONE SIMPLE ANSWER. YOU MADE THAT ILLEGAL WHEN YOU PASSED A LAW WHICH READS:

"STATE MONEY MAY BE EXPENDED TO RELOCATE PHYSICALLY THE PRESENT FUNCTIONS OF STATE GOVERNMENT . . . INCLUDING THE GOVERNOR . . . ONLY AFTER A MAJORITY OF THOSE VOTING IN A STATEWIDE ELECTION HAVE APPROVED THE BOND ISSUE. . ." BY ITS REJECTION, YOU DENIED ME THE RIGHT TO PITCH THAT TENT. I'M SURE THAT IGNORANCE OF THE LAW, RATHER THAN POLITICS OR STUPIDITY, PROMPTS SOME TO KEEP DEMANDING THAT I BREAK IT.

THE PUBLIC, NOT THE LEGISLATURE, VOTED TO MOVE THE CAPITAL. THE PUBLIC, NOT THE LEGISLATURE, VOTED AGAINST MOVING IT UNTIL THEY HAD APPROVED THE BONDABLE COSTS. THEREFORE,

THE LEGISLATURE SHOULD NO MORE AMEND THE FRANK INITIATIVE IN SUCH A WAY AS TO BY-PASS PUBLIC DESIRE TO VOTE ON MOVE COSTS THAN THEY SHOULD AMEND THE MOVE INITIATIVE TO REQUIRE THE CAPITAL TO MOVE, SAY, TO ANCHORAGE OR NOT AT ALL. ONCE ISSUES HAVE BEEN ADDRESSED BY CONFLICTING PUBLIC INITIATIVES, LEADERSHIP HAS BEEN TAKEN FROM ELECTED OFFICIALS SAVE FOR THE OBLIGATION OF SHOWING THE PUBLIC MEANS OF RESOLVING STALEMATES.

ALSO STALEMATED ARE PERMANENT FUND DIVIDENDS. ALTHOUGH I BELIEVE THE U.S. SUPREME COURT WILL RULE FAVORABLY, AS DID OUR STATE SUPREME COURT, MANY COUNTED ON RECEIVING DIVIDENDS. THEREFORE, AS A STOPGAP TO HELP MEET THIS EXPECTATION, I'M SUBMITTING LEGISLATION WHICH WOULD GRANT EACH ALASKAN A SHARE OF THE PREMIUM PAID RECENTLY FOR THEIR ROYALTY OIL.



ALASKA PUBLIC EMPLOYEES ASSOCIATION
State Headquarters: 340 North Franklin Street, Juneau, Alaska 99801 • Tel: (907) 586-2334

MEMORANDUM

To: Nancy Groszek, A.A.
State Affairs Committee

From: Cherie Shelley
Executive Director

Subject: SB 90

Date: April 3, 1981

You have asked me to review the provision in this bill providing for disclosure of personnel records of public employees and applications for public employment.

Initially it should be noted that some of the matters enumerated for disclosure are already made available, e.g., salary and job descriptions. However, background information provided in an application for employment or otherwise is submitted with a reasonable expectation of privacy. This legislation would defeat that expectation of current employees who accepted their positions with this understanding, express or implied, in mind.

It should be noted that the Alaska Constitution, Article I, Section 22 guarantees all persons in this State the right to privacy that "shall not be infringed." The Alaska Supreme Court has provided some guidance in determining what is "private" information in Falcon v. Alaska Public Offices Commission, 570 P.2d 469 (AK 1977). If it is information "which a person desires to keep private and which, if disseminated, would tend to cause substantial concern, anxiety or embarrassment to a reasonable person," then it is protected by this provision. This becomes especially important when one considers the provisions providing for disclosure of disciplinary action and performance evaluations.

Of course, once some information is protected by this right of privacy, it is not automatically barred from disclosure. What must then be done is compare the invasion of privacy, its nature and extent, with the strength of the state interest in disclosure-Falcon, p. 476. In the circumstances now under consideration, it seems the state's interests are not served by disclosure.

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The obvious opportunities for interference in the state's efforts to encourage and assist its employees in improving performance will hinder honest efforts to reach this goal. A reviewing supervisor will be less likely to be free and frank in the evaluation process knowing his or her comments may one day appear in the newspaper. On the other hand, a person may be subjected to ridicule and embarrassment in the community if those comments are less than complimentary, whether true or not.

The mere fact that a person accepts employment with the state should not operate to deprive that person of treatment in a dignified, respectful manner. No one disputes the public interest in seeing that the state's business is handled in an efficient manner, but this provision will operate against that interest.

"Public officials must recognize their official capacities often expose their private lives to public scrutiny. However, we see a great difference between 'unavoidable exposure' and 'compelled disclosure.'" Advisory Opinion on Constitutionality of 1975 PA 227, 242 N.W. 2d 3, 19 (Mich. 1976), cited at 570 P. 2d 474.

The point where freedom of information is no longer beneficial to the effective conduct of state business has been passed in this bill. The need for privacy in matters as sensitive as these should not be overlooked. "Some aspects of the lives of even the most public man fall outside the area of matters of general or public concern." Rosenbloom v. Metromedia, Inc., 403 U.S. 48 (1971).

Finally, it should be noted that the question of whether employment applications are "public information" is currently being reviewed by the State Supreme Court. City of Kenai v. Kenai Peninsula Newspapers, Inc., S. Ct. no. 4954. This decision will undoubtedly shed further light in this area.

CHARLIE PARR

ALASKA LEGISLATURE

S. R. Box 50599
Fairbanks, Alaska 99701
456-5029

Pouch V
Juneau, Alaska 99811
465-4908

January 29, 1981

M E M O R A N D U M

TO: Senator Vic Fischer, Chairman
Senate State Affairs Committee

FROM: Senator Charles H. Parr

SUBJECT: Senate Bill No. 90

The following is a brief summary of the key points in SB 90 relating to privacy and public information.

Section 010 gives the State policy of openness, and is also found in existing statutes dealing with the open meeting clause.

Section 015 provides that all records are open to inspection and copying, and provides that fees must be limited to reasonable costs of duplication.

Beginning with (e) at page 2, line 23, there is a list of items which are exempted from disclosure. These may be grouped as protecting the right of privacy guaranteed in the Alaska Constitution, or as matters of public policy where the Legislature has found the greater benefit to be withholding information.

Section 020, beginning on page 6, provides that a record which can be made open by deleting certain confidential parts will be released after the deletions are made. It also says that refusal to release records must be made in writing.

Section 025 establishes a mechanism for obtaining a court order to require the government agency to release the information. A court may examine the records in camera to determine whether they should or should not be released.

Section 035 gives a civil cause of action against a person wrongfully withholding records, and protects the person who is withholding them in good faith.

Section 040 is the definition section.

Sections 2 and 3 of the bill, beginning on page 9, line 22, deal with the State open-meeting law and remove the authority of a municipality to hold executive sessions other than in accordance with State law.

CHP:vc

kmxt 100.1 fm

Kodiak Public Broadcasting Corporation

P. O. Box 484, Kodiak, Alaska 99615 (907) 486-3181

Febuary 12,1981

Senate Affairs and Judiciary Committee
Pouch V (MS 3100)
Juneau, Alaska 99811

Honorable Chairperson:

I would like to submit this as written testimony in addition to the oral testimony I presented during the teleconferance on Senate Bill 90.

Overall, I am in favor of the bill. I am the News Director at KMXT radio, and former News Director at KFSK radio in Petersburg. Both KMXT and KFSK are members of the Freedom of Information Task Force.

On page four of the bill (40.25.015 (e) 13 (a,b,c)) I am concerned about who is going to determine what will "interfer with enforcement proceedings;", as well as the other conditions listed. Many of the requests for information in this area will be made to the Police Chief. If he/she is the final word on the meaning of these conditions, this could lead to abuse. A system for appeal should be given in the bill. The appeal process would probably end in the courts.

40.25.015 17 I and J, on page 6, may clear up the above concerns. Both of these sections are very good!

On pages 7 and 8 (40.25.025) the section offers a Superior Court injuction as enforcement. In Anchorage, Fairbanks, and Juneau this would work well. However, in smaller communities this is difficult. Kodiak does have a Superior Court, but the judge also covers the Dillingham area, which means he is out of town frequently. In Petersburg the Superior Court judge comes to town once a month for two days.

This section of the bill would require a Petersburg resident to travel to Juneau, or to hire an attorney. I would recommend a proceedure that would allow the Magistrates office to do the initial paperwork. The burden would then be on the court system to contact the Superior Court. This does, unfortunatly, place the extra work on an already overworked court system.

An alternative would be to make violations of the bill a misdemenor offense. A complaint court be sworn at the District Court level and the normal justice system would take over. The question of an injuction is not addressed in this plan, however.

My major concern with this section is that small town citizens have the same opportunity for enforcement as do their city counterparts.

kmxt 100.1 fm

Kodiak Public Broadcasting Corporation

P. O. Box 484, Kodiak, Alaska 99615 (907) 486-3181

On pages 9 and 10 I think section 3 44.62.310 (c) (3) is a very good change to the current statute. This would still allow executive sessions but eliminate the chance for easy abuse. This would reduce the number of unnecessary executive sessions.

Thoughout the bill I would recommend the pronouns "he","him" and "his" be changed to "he/she","him/her" and "his/hers". Often it is a City Clerk who is the custodian of records. Traditionally women are in this position.

The area of "administrative fees" needs to be adressed. A women in Kodiak recently told me she was charge a $20 "administrative fee". She explained that she copied the information she needed by hand, but was still charged. this was justified by the agency as payment for the time of the employee who watched her. This is, I hope, a violation of the spirit of this bill.

I would also like to recommend a poster be prepared that would simply outline: 1) How to request information/copies. 2) Costs per page. 3) The public's right to know. 4) And what to do for enforcement.

This poster could be up in all state offices that have records, City and Borough Clerks offices, and courts. This would be an easy way to inform the public of its rights.

In conclusion I will quote from the bill and AS 44.62.312 (5) "THE PEOPLES RIGHT TO REMAIN INFORMED SHALL BE PROTECTED SO THAT THEY MAY RETAIN CONTROL OVER THE INSTRUMENTS THEY HAVE CREATED."

Thank You.

Sincerly,

Jon Newstrom
News Director

cc: Freedom of Information Task Forse
Kodiak Daily Mirror
KFSK Radio, Peterburg

CENTRAL ALASKA
BROADCASTING, INC.

Duane L. Triplett
President and
General Manager

February 9, 1981

Senator Vic Fischer
Senate State Affairs Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Senator Fischer,

Let me take a few moments of your time to comment on Senate Bill 90 as it was introduced on January 15, 1981.

On behalf of KIMO-TV and its President, Duane L. Triplett and its News Director, John Vallentine, I would like to express our support for SB-90 with the following exceptions:

1) Most "exceptions" to the act are based on the right of privacy and guarantees no unjustifiable intrustians. A clear definition of this right should be included and used as the basis for the legislated exceptions.

2) On page 3 at line 22, Sec. 40.25, 015(e)(8) is much to broad and should be stricken.

3) On page 4 at line 11, Sec. 40.25, 015(13) appears to exclude those records prepared by a police officer at the time the action is taken. This implies that only "filtered" versions, if any would be available. Our free society depends on free press having the information on the activities of our government especially our law enforcement agencies.

The Society of Professional Journalists, Sigma Delta Chi, Fairbanks Chapter, has recommended to you that independent contractors paid with government funds should be included in the definition of governmental unit. I could support that position only to the extent that those records pertinent to a government contract might need to be available but certainly those nongovernment contract related activities of independent contractors should not be included.

....continued

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Seattle, Washington 98146
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In conclusion, please consider that the "business of the people" (our government) is the peoples business. We, they, have a right to know. Do not confuse this issue as one only for the rights of reporters. The mass media happens only to be the most visible of petitioners.

Thank you for this opportunity for input.

Sincerely yours,

CENTRAL ALASKA BROADCASTING, INC.

David L. Geesin,
Director of Community Affairs

DLG:bke

Society of Professional Journalists

Farthest North Chapter
Box 74573
Fairbanks, Ak. 99707

Sigma Delta Chi

February 1, 1981

Sen. Vic Fischer
State Legislature
Pouch V
Juneau, AK 99811

Dear Sen. Fischer:

I understand that my written testimony arrived via telecopier barely legible. If I knew who to blame I would get you an apology. Lacking that, I apologize that there wasn't more time to mail it down in time for the hearing. I hope this arrives in advance of the teleconference on Thursday. If not, I plan to be present in Fairbanks for the hearing and will present this testimony orally if you have not received it and any additional comments if you have.

If there is anything I or the Task Force can do to help pass this important legislation we stand ready to help. Please don't hesitate to call on us.

Again, my apologies.

Sincerely yours,

Dean M. Gottehrer
Chairman
Alaska Freedom of Information Task Force

Society of Professional Journalists

Farthest North Chapter
Box 74573
Fairbanks, Ak. 99707

Sigma Delta Chi

January 26, 1981

Members
Senate State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Dear Committee Members:

On behalf of the Alaska Freedom of Information Task Force, I thank you for the opportunity to submit written testimony on Senate Bill 90. The FOI Task Force was organized by the Farthest North Chapter of the Society of Professional Journalists and numbers nearly 40 members, among them most of the state's daily newspapers, many weekly papers, broadcast stations, magazines and other media organizations. The Task Force is dedicated to seeking the passage of a Freedom of Information bill that will bring government out of the shade where the people's business is being hidden and keep it in the sunshine where that is presently the case.

I have urged our members to judge any proposed legislation against the current law. On that standard I believe SB 90 rates high. It includes all branches of state government, covers municipal and borough governments and provices for speedy access to inspect government documents. Generally, it sides with free and open government so that the people may know what is being done in their name. For the most part the exclusions listed in the bill are rational and legitimate and balance the sometimes conflicting rights of freedom of information and the right to privacy of the individual.

There are, however, some areas of the bill we would like to see changed. Presently the bill contains no definition of the right of privacy. We believe the Legislature, following the constitutional mandate should define that right. We suggest the following definition from the Restatement of Torts: Privacy is that right of an individual to be protected against publicity of a matter concerning that individual's private life when the matter publicized is of a kind that (a) would be highly offensive to a reasonable person and (b) is not of legitimate concern to the public.

We believe the exclusion listed in Sec. 40.25.015 (e)(8) should be stricken from the bill. It is of such a general nature that many records the Legislature would probably want public could be withheld under that exclusion. Sec. 40.25.015 (13) concerns us for two reasons. First, it potentially excludes original entry police records--those documents completed when a suspect is taken into custody. One of the roles of the press historically has been to see that no individual is held by the police unjustly and closing original entry records makes that a much greater potential hazard. Second, (C) of (13) speaks of an unjustifiable intrusion into a person's right of privacy. If that language is to remain here and in other sections of the bill we believe a definition is needed of what is a justifiable intrusion. Since that seems almost impossible, we would prefer to see

that language removed. We don't want to see the police or other governmental unit employees left with the impression that anything unflattering is private.

In a suit for disclosure, the burden of proof should rest with the governmental unit to prove it was required not to release requested information. The courts should be instructed to presume in favor of disclosure.

Each governmental unit should be required to keep a file of letters of denial of information requests that should itself be public. This would allow easy monitoring of governmental units to determine whether they are complying with the law.

The bill does not clearly include computer maintained records as it should. The section defining records should be amended to include "information stored in a computer system." Independent contractors paid with government funds should also be included in the bill's coverage. The definition of governmental unit should include "independent contractor paid with public money in whole or in part and under the supervision of any of the above groups or units."

Whether the state should charge for document copies and how much is a question that has plagued us for some time. Some members believe the media should not be charged since they are doing the public's business when requesting documents while researching a story. Others are willing to pay. No one, however, believes a governmental unit should charge more than the actual copying cost. The method contained in the Governor's proposed regulations is a good compromise. Each requestor receives 20 pages free of charge in any 24 hour period. Above that the charge is 10 cents per page. Currently a great variety of charges exists among agencies. It would help all if the Legislature standardized these charges.

Finally, one last concern. Sec. 4 of the bill on page 10 makes a good faith reliance on AS 40.25 or other law governing confidentiality of public records a defense against the crime of tampering with public records. This defense should be clearly limited as applying only to impairing the availability of a public record and not to any of the other actions listed in AS 11.55.820.

The task you have before you is not an enviable one. You will be urged to exclude this or that branch of government, this or that agency, one or another of a multitude of types of records from coverage under the bill. As you address each of these requests, I ask that you recall that all of these governmental units exist because they are supported with public monies. The public has a right to know what is being done with these funds. Government in the sunshine is best for all people. Keeping government open primarily benefits the people--not the media. Remember that 75 percent of all requests under the federal freedom of information laws come from non-media sources and only 25 percent from the media.

Sincerely yours,

Dean M. Gottehrer
Chairman
Alaska Freedom of Information Task Force

CAP 118

LEGISL. TELECONF. NETWORK

Vic - your role is to thank the witnesses and to ask questions. Debra will control the flow.

VP, CHM N-ST. AFFRS

1) Open the meeting. Mention that this is a State Affairs Committee all-sites teleconference on SB 90. Introduce yourself and the members absent and present.

"FREEDOM OF INFORMATION BILL"

OTHER MEM SEN. BRADLEY, COLLETTA, ELIASON, STEVENS

SEN. PARR - AUTHOR . . .

2) Summary of the bill

" SB 90, entitled "an Act relating to privacy and public information; and changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure" is a bill dealing with the disclosure of documents in the possession of the Alaska State government. ~~If enacted, it would be our state's Freedom of Information Act.~~ The intent of SB 90 is that all documents in the possession of governmental units belong to the public. This bill ~~does~~ provides for exclusions when disclosure would infringe on the right to privacy of the individual. The right of privacy is guaranteed in our Alaska Constitution. This bill outlines the procedures for speedy access to inspect and duplicate documents and to delete confidential information. It establishes a mechanism for obtaining a court order to require the government to release the information and provides for a civil cause of action against a person wrongfully withholding records. ~~This~~ bill covers all branches of state government including municipal and borough governments..

A bill of this same subject was first introduced in 1972 and has gone through numerous revisions. Last week, our committee heard testimony from Juneau. Basically, all people spoke in favor of the concept of the bill, but numerous amendments were proposed. Our committee is scheduling a mark-up session, Tuesday evening February 17, at 7:00 PM in Juneau. If you do not have the opportunity to fully present your views today, you may sent written comments to my office. Your Legislative Information Office has my address and phone number.

3) ~~Turn the mike over to~~ At this point → Debra ~~so that she can~~ poll the number of people who want to testify.

LIMITED AMOUNT OF TIME - 3 PM.

4) Limit the amount of time for each person to testify.

NOTE: Listen for Lucinda Hites from Sitka. She has the tendency to ramble.

D R A F T

COMMENTARY TO PROPOSED COMMITTEE SUBSTITUTE FOR SB 90

February 6, 1981

D R A F T

COMMENTARY TO PROPOSED
COMMITTEE SUBSTITUTE FOR
SB 90

Sec. 40.25.010. State Policy.

No change from SB 90.

Sec. 40.25.015. Records To Be Open To Inspection.

The reference to "exceptions" in the title has been eliminated since a separate exemption section now appears in sec. 40.25.030. The reference to inspections that infringe on a person's right to privacy has been deleted from subsection (a) since a separate exemption on this subject appears in sec. 40.25.030. Subsection (d) has been amended to allow a person to receive 20 pages of a record copied without charge during any 24-hour period and to permit the waiver of fees in the public interest.

Sec. 40.25.020. Duties Of Governmental Unit.

This new section takes the place of Sec. 40.25.020. Requests For Records, in SB 90. It provides a reasonable time frame for an agency to search for, locate and determine whether a record is subject to disclosure. It also allows sufficient time for the agency to determine whether a specific exemption to disclosure applies and, in particular, whether disclosure would constitute an unwarranted invasion of personal privacy. The time frame specified is consistent with the administration's recently proposed procedural regulations on public information as well as CSHB 131

(Judiciary, 1977) and SCS CSHB 75 (1980). It does, however, add a fourth circumstance justifying extension of the ordinary 10-day period in which to respond to a public request: the need to notify a person and provide him with an opportunity to be heard when his privacy interests may be invaded through disclosure of the record. See sec. 40.25.030(c).

Sec. 40.25.030. Exemptions.

This section lists 12 exemptions from the duty to make records public.

Exemption (1) now includes records exempt from disclosure by federal law and regulation (which are currently exempt from disclosure under existing law) as well as records exempt from disclosure by court rule.

Exemption (2)(tax returns) remains identical to former exemption (2), but the clause pertaining to subject access has been deleted as the issue of subject access is covered generally under sec. 41.25.040.

Former exemptions (3)-(8) are now covered under the general privacy exemption in exemption (12) and are discussed under the commentary pertaining to that exemption.

Former exemption (9)(archival records) now appears without change as exemption (3).

Former exemption (10)(library records) now appears without change as exemption (4).

Former exemption (11)(trade secrets) now appears as exemption (5). The exemption has been redrafted to conform more closely with the companion federal provision

and to protect trade secrets and other confidential business information developed by government. The term "trade secrets" is intended to include any formula, pattern, device or compilation of information which is used in a commercial setting which gives the owner an opportunity to obtain an advantage over competitors who do not know or use it.

The definition of the term confidential has been clarified by several major cases arising under the federal exemption, and those cases should serve as persuasive authority in interpreting the Alaska provision. Material has been held to be confidential if: (1) it would not customarily be released to the public by the person from whom it was obtained, Sterling Drug, Inc. v. FTC, 450 F.2d 698, 709 (D.C. Cir. 1971); (2) disclosure would impair an agency's ability to obtain similar information in the future, National Parks & Conservation Association v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974); or (3) disclosure would cause substantial harm to the competitive position of the person from whom the information was obtained, National Parks & Conservation Association v. Klepoe, 547 F.2d 673, 679 (D.C. Cir. 1976).

Former exemption (12)(test questions) now appears as exemption (6) and has been narrowed to provide that the exemption only applies if disclosure would compromise the objectivity of the examination process.

Former exemption (13)(law enforcement files) now appears as exemption (7). The introductory section has been modified slightly to more closely parallel the corresponding

section in the federal act with the general reference to "other governmental unit" eliminated. Former subsection (H) has been deleted as unnecessary as the exemption is already covered by exemption (1).

Paragraph (G) of former exemption (13)(crime victims) has been deleted as it implies that the names of victims of crimes other than sexual assault are subject to public disclosure. In the proposed committee substitute the names of all crime victims would be protected from disclosure under both exemption (12) and subsection (h) of this section, until open court proceedings were initiated where the victim was identified. The right of the public to know other basic information about a crime (original entry records) is emphasized in subsection (h) of this section, and reference is made to the commentary accompanying that subsection.

The attorney work product exemption (former exemption (15)) now appears as exemption (9). The limitation in SB 90 requiring disclosure of attorney work product after the litigation has ended has been eliminated. Materials prepared by an attorney in preparation of possible litigation have been exempt from discovery since the landmark decision in Hickman v. Taylor, 329 U.S. 495 (1947). In that opinion the court noted the general policy against invading the privacy of an attorney's preparation of a case is essential to the orderly working of our legal system. Additionally, the attorney work product exemption has been held to apply to discovery of attorney work product in cases that have already been terminated, In Re Murphy, 560 F.2d 326 (8th Cir. 1977).

Consequently, in permitting discovery of attorney work product once the litigation has ended, SB 90 may be in contradiction to the Alaska Court Rules of Civil Procedure.

Former exemption (16)(judge's opinions) now appears as exemption (10), but the prior limitation in the exemption (once the case has been decided, prior draft opinions become public) has been eliminated for the same reasons as discussed under the attorney work product exemption above.

Former exemption (17) (internal security procedures) appears without change as exemption (11).

Exemption (12) exempts from disclosure records that would constitute an unwarranted invasion of personal privacy. This exemption is broad enough to take the place of the general "infringes on a person's right to privacy" exemption specified in sec. 40.25.015(a) of SB 90, and the specific exemptions in former subsections (a)(3)-(8). In using the term "unwarranted invasion of privacy" the proposed committee substitute emphasizes that even in instances where disclosure would constitute an invasion of privacy, disclosure is required if the public interest in disclosure outweighs the privacy interest.

The deletion of the specific exemptions previously found sec. 40.25.015(a)(3)-(8) of SB 90 does not make any substantive change in the bill. While SB 90 appears to provide that all information referred to in exemptions (3)-(8) are exempt from disclosure, each exemption requires that the information constitute "personal information" for it to be exempt from disclosure. That term was defined in former

sec. 40.25.040(4) as "information about an individual person, the disclosure of which would constitute an unjustifiable invasion into a person's right to privacy". Consequently, rather than blanketly exempt from disclosure the categories of records listed in exemptions (3)-(8), SB 90 requires the agency to first balance the two competing interests involved (the public's right to access to information concerning the conduct of governmental affairs and a person's privacy interests) in making a determination whether to disclose a particular record. The specific exemptions in (3)-(8) are therefore unnecessary under both SB 90, which exempts from disclosure in sec. 40.25.015(a) records that would infringe on a person's right to privacy and, under exemption (12) of the proposed committee substitute, which exempts from disclosure records that would constitute an unwarranted invasion of privacy.

Subsection (b) is new to SB 90. It is intended to: (1) state the general test to be used by a governmental unit in determining whether disclosure would constitute an unwarranted invasion of privacy; and (2) provide guidelines to be used in applying that test. Subsection (b) does not, however, define the right to privacy. Because of the wide ranging circumstances where the right to privacy can be asserted, and the competing public interests involved, the term is not susceptible to a single and uniform definition. However, in the context of disclosure of public records, specified guidelines can be provided to governmental units, and ultimately the courts, as an aid in determining whether

disclosure of a particular record would constitute an unwarranted invasion of personal privacy. The proposed committee substitute adopts this approach.

The guidelines listed in paragraphs (1)-(9) are not necessarily listed in order of importance nor are they to be viewed as having equal weight in arriving at a decision regarding disclosure. For example, if the information was of a personal nature under paragraph (1), but the individual was notified, or reasonably could have concluded, that the information would be subject to public review at the time he provided the information, the guideline in paragraph (7) would clearly take precedence and require disclosure.

The factors listed in guideline (1) are taken from AS 39.26.010, which prohibits the government from inquiring into certain personal matters concerning state employees except as directly related to the performance of their official duties. Subparagraph (E) is based on former sec. 40.25.015(e)(6).

The most important consideration in guideline (2) is whether the person could reasonably assert an option to withold embarrassing information from the public. A critical factor in arriving at the determination would be the relationship between the information and the person's ability to perform in the governmental capacity he may hold. In such a case, the information, though embarrassing, could not be witheld. Again, as with the other guidelines, each must be considered in relationship to other considerations. For example, embarrassing information about an individual that was merely rumor or conjecture would result in a much more substantial

privacy claim pursuant to guideline (8).

As is apparent from guideline (3), in many instances it is relevant to consider the standing of the person who has requested the information. It will sometimes be impossible to determine if a given disclosure will produce an unwarranted invasion of privacy without considering what the requesting party intends to do with the information. For example, a compilation of the home addresses of all state employees listing their salaries would not be exempt from a newspaper reporter doing a story on the "average" state employee, while the compilation should be exempt from release to an advertising agency intending to use the list for purposes of commercial solicitation.

Guideline (4) is largely self-explanatory. The fact that the information was voluntarily furnished by an individual reduces his privacy claim while the fact that he may have been compelled to furnish the information increases his privacy claim.

The guideline in paragraph (5) is intended to emphasize that personal information supplied by applicants or recipients of basic social service programs, such as public assistance, are entitled to substantial privacy protection as the information was submitted in order to obtain minimum social benefits, and the individual had little choice but to submit the required information. This compares, however, with the privacy claim of individuals who supply information to government in an effort to obtain substantial government benefits or subsidies. Their privacy

claim is significantly reduced since the decision to apply and supply the information was a voluntary one on the part of the individual. Additionally, there is a significant public interest in monitoring governmental programs that distribute substantial amounts of state wealth to relatively few individuals.

The fact that the information requested was readily available from non-governmental sources reduces an individual's privacy claim pursuant to guideline (6), as does notification to the person at the time he supplies the information that the record will be subject to public disclosure pursuant to guideline (7).

An individual's privacy claim will be substantially greater under guideline (8) when the requested personal information consists of unverified information or rumor. The substantial damage that uncorroborated information about an individual can do to personal reputation weighs heavily against disclosure.

Guideline (9) is self-explanatory.

Subsection (c) is also new to SB 90. It establishes notice procedures to protect individual privacy interests. The duty under subsection (c) arises whenever the governmental unit has decided to disclose material that may come within exemption (a)(7)(C) or (a)(12) and there is a <u>substantial probability</u> that the person identified in the record will object to disclosure. The "substantial probability" language emphasizes that the notice requirement does not apply every time there is a possibility that a privacy exemption may be

applicable. If the governmental unit applies the guidelines specified in subsection (b), notification should only be required in a small minority of cases. However, in cases, for example, where there is significant disagreement in the governmental unit itself as to whether the public interests in disclosure outweigh any applicable privacy interests, the agency should be fully apprised of all considerations favoring non-disclosure before declining to assert an applicable exemption.

Subsection (d)(all records became public after 20 years) is identical to Sec. 40.25.015(f) in SB 90.

Subsection (e)(research)is identical to Sec. 40.25.015(g) in SB 90 but in paragraph (2), reference has been made to federal law or regulation and court rule, consistent with exemption (1).

Subsection (f)(subpoenaed records) is similar to sec. 40.25.015(b) in SB 90 but emphasizes that other state laws pertaining to the confidentiality of public records cannot be raised to prevent disclosure once a subpoena has been issued.

Subsection (g), pertaining to employee personnel records, is based on sec. 40.25.015(i) but more clearly defines the types of employment personnel records subject to disclosure and exempts from disclosure personnel performance evaluations. While there is substantial disagreement on this issue, the proposed committee substitute reflects the view that the disclosure of such information constitutes an unwarranted invasion of the employee's right to privacy and

unnecessarily hampers the ability of government to use the performance evaluation as an effective supervisory tool to insure adequate job performance.

Subsection (h), pertaining to crime information, is identical to sec. 40.25.015(j), but does not provide that the name of the victim of a crime is a matter of public information. The proposed committee substitute adopts the approach that until open court proceedings commence where the victim is identified, the release of the victim's name would constitute an unwarranted invasion of privacy.

Sec. 40.25.040. Access To Records By Record Subject.

This section, which is new to SB 90, gives the individual or his duly authorized representative the right of access to any accessible record pertaining to him. "Accessible record" is defined in sec. 40.25.090(1) as a record that refers to a particular individual that can be retrieved as a result: (1) of the governmental unit's use of a retrieval scheme or index based on the identity of the individual; or (2) of the requester providing sufficiently detailed information to enable the governmental unit to locate the record without an unreasonable expenditure of time, effort, money or other resources. The compliance timetable and procedures of secs. 40.25.015--40.25.020 are incorporated by reference. Consequently, the same procedures apply if the individual is requesting access to any record whether or not his own.

Subsection (b) imposes limits on the individual's right of access to his personal records. Paragraph (1)

incorporates the relevant freedom of information exemptions of secs. 40.25.030(a)(1)--40.25.030(a)(11). Additionally, paragraph (1) allows disclosure of information that would otherwise be exempt under AS 40.25.030(a)(1)--40.25.030(a)(11) if the information was originally submitted to the governmental unit by the requester.

Paragraph (2) limits an individual's access to his personal records to the extent necessary to prevent an unwarranted invasion of another individual's personal privacy. The agency should, of course, balance the public interest in disclosure against the privacy interest of the individual to whom the records pertains. See sec. 40.25.030(b).

Paragraph (3) protects the anonymity of individuals who write letters of recommendation or provide character and fitness evaluations. A record requester is entitled to access, however, provided that the identity of the source of the evaluation is not revealed. This section also confirms that an individual shall have access to his own test questions and answers in any examination used for licensing or public employment. This applies to examinations that the individual must take and pass in order to practice a trade or profession such as bar and real estate examinations. This right is limited to access and does not include copying. This limitation enables government agencies to protect the integrity of test questions that may be used for future examinations.

Subsection (c) is intended to be consistent with protections existing for the confidentiality of records of minors who may seek counselling for or treatment of conditions

such as venereal disease, pregnancy, or alcohol or other drug abuse. The purpose of these provisions is to remove the fear of parental discovery and thus encourage minors to seek appropriate aid. This provision prevents parents and guardians from circumventing these statutes by asserting, in a representative legal capacity, the access rights of their children.

Subsection (d) is similar in intent to sec. 40.25.020(c).

Sec. 40.25.060. Correction and Amendment of Records.

This section, which is new to SB 90, provides an individual with the right to correct or amend any incomplete or inaccurate information contained in a record accessible to him under sec. 40.25.040.

Subsection (b) specifies that a request to correct or amend must be in writing and requires a governmental unit to respond within twenty days after receipt of the request. If the governmental unit makes the correction or amendment or does not maintain the record, the matter comes to an end. If the agency refuses to correct or amend as requested, it must inform the individual in writing of its decision and state the reasons.

If the governmental unit refuses to order the correction or amendment, subparagraphs (b)(3)(A)-(B) permit the individual to file a statement of disagreement with his record and requires the governmental unit to notify the individual of his right to bring a judicial action pursuant to sec. 40.25.070. Whenever a governmental unit discloses

disputed information to a third party, subsection (c) compels it to: (1) identify the disputed information; (2) provide a copy of the individual's statement of disagreement or pending request for amendment or correction; and (3) provide a statement of the agency's current position concerning the requested amendment or correction, including final action if any has been taken. The agency must also transmit a copy of the statement of its current position to the last known address of the individual whose record is released.

Sec. 40.25.070. Enforcement: Injunctive Relief.

This section remains largely unchanged from sec. 40.25.025 in SB 90, but reflects the ability of an individual to require a governmental unit to correct or amend incomplete or inaccurate information pertaining to him.

Sec. 40.25.080. Civil Action For Obstruction Of Access To Records.

No change from SB 90.

Sec. 40.25.090. Definitions.

A definition of "accessible records" appears in paragraph (1). That term is used in sec. 40.25.040 and is discussed in the commentary under that section.

The definition of "governmental unit" remains identical to the definition in SB 90 and specifically includes municipalities.

The definition of "personal information" has been eliminated as that term is not used in the proposed committee substitute.

A new definition of "individual" is provided. That term is used in the section on individual access to records concerning themselves, and is intended to exclude organizations, such as corporations and partnerships.

Sections 2 - 5.

The amendments in sections 2-5 of SB 90 appear without modification in the committee substitute with the exception of former section 4, providing an affirmative defense to the crime of Tampering With Public Records. In view of the requirement in the definition in the crime that the public servant "know" that conduct is improper, the affirmative defense has been eliminated.

Section 6. Effective Date.

A delayed effective date is provided to allow sufficient time to identify and propose amendments to the Act as a result of oversights in co erage.

Work Draft

COMMENTS ON SB 90 entitled "An Act relating to privacy and public information; and changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure."

Page 1 - No suggested changes

Page 2

line 16 - add the words "in person" (2 comments)

line 17 - add "The request can be made verbally or in writing."

beginning line 19 through 22 - a fee should be charged for searching for the records

bill should permit municipalities to establish a charge for documents which does not exceed the actual cost of producing and duplicating the documents.

establish a uniform fee schedule similiar to the regs proposed by the governor. - 20 pages free within a 24 hour period

Less than 100 copies free - Commissioner of Administration shall by regulation provide a method by which indigent persons may secure information without payment of fees.

Fee should be waived in the public interest.

Fees should not be used to discourage the public

Fees currently charged are prohibitive.

line 25 - add federal law or regulation

add "or required to be kept confidential by federal law or regulation.

Page 3

lines 19 through 21 - Include "applicants" ; expand social services to include public benefits

lines 22 through 25 - exemption too broad; should be deleted (2 comments)

Page 4

lines 5 through 8 - Who decides what are trade secrets, etc?

lines 9 through 10 - Current driver's manual contains sample questions which are in some cases, actual questions on drivers license test.

line 11 - "intelligence" needs to be defined.

Excludes those records prepared by a police officer at the time the original action is taken.

Excludes original entry police records - doesn't allow the press to be a watchdog to see that police do not violate civil rights.

Do not alter section must be read in tandem with page 6, line 8 through 12.

Page 5
lines 1 through 6 - Who makes the decision?

line 29 - rewrite subsection (h) to read:
(h) The exceptions provided under this section do not preclude

(1) production and release of subpoenaed records or information to a state or municipal agency during the course of an investigation;

(2) production and release of records to the ombudsmanwhen requested during the course of an investigation by him; records released to the ombudsman shall be kept confidential by him while the records are in his custody, except the ombudsman may, upon prior notice to the agency, release the records to the court for in camera review pursuant to AS 40.25.025(d).

Page 6
lines 3 through 7 - Oppose access to an employee's record of current performance on the job. (3 comments).

Each municipality should make the decision on personnelrecords.

beginning line 27 - ....the records shall be made [promptly] available to the person making the request <u>within 10 days of the receipt of the request.</u>

.....as soon as practible but no more than 10 days.

Must allow for 10 days because it places the request over all othergovernment business.(2 comments)

Page 7
lines 1 through 11 - the use of the word "suitable" is too vague. Should use Federal FOIA "reasonable segregability".

Any governmental unit that is applying an exemption should be required to include a packet of instructions, including the form drawn up by the Superior Court, on how to proceed in court without counsel to challenge the exemption.

lines 15 through 29 - smaller communities don't have Superior Court Judge full time. Suggestion that the magistrate's office do initial paperwork.

line 26 - change to "actual" attorney fees.

Page 8
line 25 through 29 - Who is the "head" of a governmental unit? What is an a "agency? If an agency is a department, the commissioner would be the "head"; if agency means the division, the director would be the "head". Who is the "head" of for example, the Human Rights Commission - the Executive Director or the Chair?

Would you need a "designee" in each office location - for example, an employee in Fairbanks Natural Resources office need to contact a designated custodian in Anchorage before releasing a record?

Page 8 con't
line 7 - case should be heard as a priority matter. 10 - 30 days maximum to hear trial.

line 16 - change reasonable to actual attorney fees and other actual litigation costs.

line 27 - definition of "governmental unit" should include "governmental instrumentality", "public corporation", "REAA" and "independent contractors paid with government funds but limited only to those activities related to the government contracts."

Page 9
line 11 - include "computer maintained records and information stored in a computer system"

line 24 - What is a "public body?" Would, for example, this section apply in a meeting between several state agencies and the U.S. Army?

beginning at line 28 - delete entire section - Repeals present authority of state or local government body to go into executive session to discuss matters which are required or authorized by federal law to be discussed in executive session. Would also repeal the present authority of municipalities to establish by charter or ordinance additional subjects which may be discussed in executive session.
(Above supported by Juneau, Kodiak, Nome and Municipal League)

OTHER COMMENTS

Exempt municipalities (Kodiak, Juneau, Municipal League)

Don't exempt municipalities (8 comments)

Allow municipalities to opt out after adopting similar ordinance.

Include an Administrative Appeal process.

Define "right to privacy" and "unjustifiable intrusion into a person's right of privacy."

Someone who would be adversely affected by disclosure of an arguably exempt record should be allowed to intervene in a case involving the application of an exemption.

Change pronouns to read he/she, him/her

Witnesses will not be protected if names, addresses & other personal info can be given to the public.

Recommend preparing poster to be hung in each office - 1) how to request info; 2)cost per page; 3) public's right to know; 4) what to do for enforcement.

Each governmental unit should be required to keep a file of letters of denial that should itself be made public.

Burden of proof should rest with the governmental unit. Presumption in favor of disclosure

Preliminary labor negotiations should be private.

Public is not even aware of what is available.

Public will be paying additional "thousands of dollars" to staff a government unit to produce these records.

Page 10, Section 4 - good faith defense should be clearly limited as applying only to impairing the availability of a public record.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC – STATE CAPITOL
JUNEAU, ALASKA 99811

February 6, 1981

The Honorable Vic Fischer
Chairman, Senate State Affairs Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: SB 90

Dear Senator Fischer:

At the January 29, 1981 meeting of the Senate State Affairs Committee you requested that I provide the Committee with proposed amendments to SB 90, An Act relating to privacy and public information. Additionally, you requested that I incorporate as many suggestions for amendments that were raised during public testimony that would be consistent with the administration's proposed procedural regulations on public records and the general approach to the subject adopted by the Department of Law after consulting with other state agencies.

To this end, I have drafted and enclosed for your Committee's consideration a proposed committee substitute for SB 90. Additionally, I have prepared a draft of commentary to accompany the legislation. The commentary should naturally be expanded and revised to provide evidence of legislative intent as the bill itself is revised. The draft commentary highlights the differences between the proposed committee substitute and SB 90.

While the proposed committee substitute makes a number of substantive and technical changes to SB 90, the following changes should be noted:

1. The proposed committee substitute permits a reduction or waiver of copying fees in the public interest, consistent with public testimony and the administration's proposed regulations on the subject. Sec. 40.25.015(d).

2. The proposed committee substitute allows a person to obtain 20 pages of a record copied without charge within any 24-hour period, consistent with public testimony and the administration's proposed regulations on the subject. Sec. 40.25.015(d).

3. The proposed committee substitute specifies a reasonable time frame to permit a governmental unit to search for and locate a requested record and to determine whether an exemption to disclosure applies. This approach is consistent with the administration's proposed regulations on the subject, prior versions of the bill, and the federal act. Sec. 40.25.020.

4. The proposed committee substitute reduces the number of exemptions from the duty to make disclosure from 17 to 12. This approach is consistent with general public testimony on the bill. Sec. 40.25.030(a).

5. The proposed committee substitute specifies guidelines that are to be used by government in determining whether disclosure of a particular record would constitute an unwarranted invasion of privacy. Though not specifically defining the "right to privacy", the guidelines are consistent with public testimony that has requested clarification on this issue. Sec. 40.25.030(b).

6. The proposed committee substitute provides a mechanism to allow a person whose privacy interests may be invaded unwarrantly by disclosure of a public record to present arguments against disclosure to the governmental unit. Sec. 40.25.030(c).

7. The proposed committee substitute provides a mechanism whereby individuals can compel government to correct or amend incomplete or innaccurate information in records pertaining to them. Sec. 40.25.060.

It also should be noted that the proposed committee substitute retains those sections of SB 90 that received virtually unanimous support during public testimony, including: (1) the prohibition against charging the public for the costs of document searches; (2) the inclusion of municipalities within the coverage of the bill; and (3) the simplified injunctive relief provisions.

There is likely to be some disagreement as to several of the changes made by the proposed committee substitute. Most notably, employee personnel evaluations and the names of crime victims are exempt from public disclosure under the proposed committee substitute. However, these relatively minor areas of disagreement should not detract from the general consensus that has developed on the need for legislation on the subject and the significant areas of agreement among all proposals.

I will, of course, be available to discuss this matter further with you at your convenience and to answer any questions that the proposed committee substitute may raise. In the meantime, I look forward to working with the committee during mark-up of SB 90. I have taken the liberty of copying Senator Parr with this letter, the proposed committee substitute and the draft commentary, as I know that as the bill's primary sponsor he will take particular interest in reviewing the changes made to SB 90 by the proposed committee substitute.

Very truly yours,

WILSON L. CONDON
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By: _____
Barry Jeffrey Stern
Assistant Attorney General

BJS:dm

cc: The Honorable Charles H. Parr
Alaska State Senate

Wilson L. Condon
Attorney General

Jerry Reinwand
Executive Assistant to Governor

Keith Specking
Legislative Assistant

Art Peterson
Assistant Attorney General

STATE OF ALASKA

JAY S. HAMMOND, Governor

ALASKA PUBLIC UTILITIES COMMISSION

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

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Anchorage, Alaska 99501

Phone (907) 276-6222

May 27, 1981

Honorable Pat Rodey, Majority Leader
Chairman, Senate Judiciary Committee
Alaska State Legislature
Pouch V - State Capitol
Juneau, Alaska 99811

Re: CSSB 90 (Judiciary) - Privacy/Public Information
(Public Records Act)

Dear Pat:

It has been called to our attention that Committee Substitute for Senate Bill 90(Judiciary), a revision of the State's public records laws, as it emerged from the Senate Judiciary Committee and presently is pending before Senate Rules Committee, presents a problem with regard to the way our commissions work. APUC Commissioner Stuart C. Hall spoke with a member of your staff Friday afternoon, May 22, concerning this matter.

On page 6, lines 26-29, inclusive, of the Committee Substitute, proposed AS 40.20.020(a)(10) would exempt "notes, memoranda, draft decisions, opinions, or other similar documents prepared by a justice or a judge, or a person "working under the supervision of either," in the process of deciding a legal issue." Our concern is whether the Judiciary Committee considered the inclusion of members of the quasi-judicial regulatory bodies within the ambit of this exemption. We believe they should be included.

AS 44.62.310(d)(1) makes the State's "Open Meeting Law" inapplicable to "judicial or quasi-judicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding". Although CSSB 90(Jud) would exempt the work product of justices, judges and their law clerks, etc., that emanate from such meetings within the court system, it would not exempt similar work products that emanate from comparable deliberative sessions of the principal quasi-judicial regulatory agencies that act in a court-like manner under the delegated powers of the legislature. Thus, as currently drafted, CSSB 90(Jud) would produce a result in the new Public Records Act inconsistent with that achieved under the Open Meeting Law.

SLH

While the Commissions support the protection of personal privacy, and at the same time want to ensure full public access to information, as contemplated under CSSB 90(Jud), the legislation as presently written would inhibit, if not stifle, the deliberative process, particularly the free exchange of ideas so essential to a decision in the public interest. Because the regulatory commissioners, at this stage, act in a manner very much like judges their deliberations, and the subsequent written work product -- draft orders, decisions, etc. -- should be as fully protected as those of justices and judges. Full public access to these drafts, notes, memoranda, etc. prior to issuance of an order or decision seriously would impede, if not prejudice, the deliberative process in a manner probably not intended under the legislation.

There is yet another incongruity that results from the omission of an exemption for the members of the quasi-judicial regulatory bodies: proposed AS 40.020.030(a)(9) would exempt the work products of agency attorneys leading up to the determination of legal issues. What would occur is that our staff counsel, whether assisting the staff in the preparation of its case, or working with the Commissioners in the preparation of an order, would be exempt vis a vis their written memoranda, notes, drafts, etc., but the work product of the Commissioners by and for whom they are employed would not be. Again, we are confident this is an unintended result.

Accordingly, we would request the adoption of a corrective amendment -- one that would limit the application of the exemption we propose to members of the principal quasi-judicial regulatory agencies: The Alaska Public Utilities Commission, the Alaska Pipeline Commission, and the Alaska Transportation Commission. We enclose our proposed amendment and request its early, favorable consideration. If you have any questions relative to our concerns or to our proposed amendment, please contact either Commissioner Stuart C. Hall of the APUC or Commissioner Jan Williams of the APC.

Cordially yours,

Carolyn S. Guess

Carolyn S. Guess, Chairman
Alaska Public Utilities Commission

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • Pouch V • Juneau, Alaska 99811 • (907) 465-4954
Interim office: 511 West 4th Ave., Suite 5,
Official Business Anchorage, Alaska 99501 phone: 278-3654

M E M O R A N D U M

TO: Anchorage area senators

FROM: Sen. Vic Fischer

DATE: November 20, 1981

SUBJECT: Jails and corrections

I had a singularly valuable afternoon yesterday: I spent it visiting the Eagle River Correctional Center. I urge each of my colleagues who have not already done so to spend some time at this facility as well as the 3rd and 6th Avenue jails.

It is clear that the issue of providing adequate incarceration capacity will be with us next session and in the years to come. In this context, the Eagle River Correctional Center provides an example of the potentials of an effective program and the dangers of substandard facilities.

The new women's facility is great. The men's program facility is an indication of what can be done in corrections, even though it is understaffed and will have its common spaces quite overextended once the two additional housing units are completed.

The most serious problem evident is in the special treatment unit, where 52 men are housed in a facility designed for 20: one man cells are being used for two people and "temporary" double-decker bunks have been constructed in the corridors. All this accompanied by minimum available guards. (The men's facility actually has fewer staff now than when it was initially opened.)

Aside from all this creating a potentially explosive situation, the sad aspect is that people are being warehoused and prevent the facility functioning as a correctional center, especially if adequate staff were available.

If you manage to visit Eagle River, be sure to talk to the superintendents of the men's and women's facilities and also to some of the other senior staff. I did it and gained alot of insights into the extent to which presumptive sentencing is causing an increasing load and potentially creates some extremely serious problems. People are staying in the system much longer, and the probation load is also increasing. Uncertainty of length of incarceration meantime causes people to be brought into the correctional center who are not on a correctional track.

INCORRECT — SENTENCE LENGTHS HAVE DECREASED

I also came to the conclusion that further attention must be given to the location of the correctional system within the executive branch of state government. Potentials for an effective and constructive system are there, but they will be realized only with appropriate management, staffing, and interrelationship with related function.

Finally, the correctional system provides an excellent example of the interrelationship between capital construction and state personnel requirements. As facilities are expanded and more people are incarcerated, there simply will have to be more staff to serve as guards, provide counseling and other rehabilitation services, and generally make the system work.

These are just a few impressions gained from a visit to Eagle River. I strongly urge you to visit the correction center if you have not recently done so.

Very best regards.

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 3, 1981 SENATE STATE AFFAIRS

COMMITTEE REPORT

ON

CSSB 90 ENTITLED "AN ACT RELATING TO PRIVACY AND PUBLIC INFORMATIION; CHANGING RULE 65 OF THE ALASKA SUPREME COURT RULES OF CIVIL PROCEDURE; AND PROVIDING FOR AN EFFECTIVE DATE."

Committee Substitute Bill Summary

The committee substitute makes a number of substantive and technical changes to the original SB 90. The following changes should be noted:

1) The committee substitute permits a reduction or waiver of copying fees in the public interest or if the requester is indigent. Sec. 40.25.015(d).

2) The committee substitute allows a person to obtain 20 pages of a record copied without charge within any 24-hour period. Sec. 40.25.015(d).

3) The committee substitute specifies four "unusual circumstances" which allow the governmental unit additional time to produce the records. Sec. 40.25.020(e).

4) The committee substitute reduces the number of exemptions from the duty to make disclosure from 17 to 12. Sec. 40.25.030(a).

5) The committee substitute states that all records become public after they are 50 years old unless specifically exempted from disclosure by state statute. Sec. 40.25.030(c).

6) The committee substitute provides a mechanism to allow a person whose privacy interests may be invaded unwarrantedly by disclosure of a public record to present arguments against disclosure to the governmental unit. Sec. 40.25.030(b).

7) The committee substitute provides a mechanism whereby individuals can compel government to correct or amend incomplete or inaccurate information in records pertaining to them. Sec. 40.25.060.

Background

The current statutes AS 09.25.110 and AS 09.25.120 addressing access to public records were adopted in 1962. AS 09.25.125 concerning enforcement and injunctive relief was added in 1975.

A bill relating to privacy and public information was first introduced in the 9th Legislature, 1st Session by the then Representative Parr. From first introduction in 1975 and throughout each subsequent legislative session, the proposed legislation received exhaustive study by standing committees of each house and Free-Conference committees.

SB 90 was introduced on January 15, 1981, and referred to the State Affairs and Judiciary Committees. A Senate State Affairs Committee hearing was held on January 29, 1981 (see attached minutes - Exhibit A) and an all-sites teleconference on February 5, 1981 (see attached minutes - Exhibit B). A mark-up session was held on Tuesday evening, February 17, 1981. Consistent with public testimony and the committee input, CSSB 90 was drafted.

It is the Committee's intent that CSSB 90, or a form thereof, be enacted by this legislative session.

Purpose of Committee Substitute SB 90

It is the intention that this legislation be interpreted and implemented in light of the policy that all records of governmental units are open to the public unless specifically exempted by provisions of this bill. The provisions exempting records should be interpreted in the narrowest possible sense, so that in cases of any doubt, the information should be made open to public inspection. The exclusions listed in the bill balance the sometimes conflicting rights of freedom of information and the right to privacy of the individual.

The committee substitute retains those sections of SB 90 that received virtually unanimous support during public testimony, including: (1) the prohibition against charging the public for

the costs of document searches; (2) the inclusion of municipalities within the coverage of the bill; and (3) the simplified injunctive relief provisions.

Major substantive changes to the original SB 90 include: (1) a reduction or waiver of copying fees in the public interest or if the requester is indigent; (2) allows a person to obtain 20 pages of a record copied without charge within any 24-hour period; (3) specifies four "unusual circumstances" which allow the governmental unit additional time to produce the records; (4) reduces the number of exemptions from the duty to make disclosure from 17 to 12 with the twelfth exemption exempting records from disclosure which would constitute an unjustifiable invasion of privacy; (6) all records become public after they are 50 years sold unless specifically exempted from disclosure by state statute; (7) provides a mechanism to allow a person whose privacy interests may be invaded unwarrantedly by disclosure of a public record to present arguments against disclosure to the governmental unit; and (8) provides a mechanism whereby individuals can compel governmental units to correct or amend incomplete or inaccurate information in records pertaining to them.

It is the committee's desire that the Judiciary Committee consider the following when analyzing CSSB 90: whether medical records should be specifically exempted in light of the provision that all records become public after they are 50 years old and whether independent contractors paid with government funds should be included in the definition of governmental unit. Other concerns were the inclusion of original police entry records in the exemption section and whether there was a need to include a definition of "the right to privacy".

Section Analysis

Sec. 1.

Sec. 40.25.010. Specifies the Findings and Purpose.

Sec. 40.25.015. Provides that all records are open to inspection and copying, and provides for a uniform fee schedule which may be varied in the public interest or if the requester is indigent.

Sec. 40.25.020. Establishes the duties and procedures of a governmental unit to follow when a request for documents is made.

Sec. 40.25.030. Specifies the exemptions.

Sec. 40.25.040. Allows individuals to have access to records that pertain to them.

Sec. 40.25.060. Provides a mechanism whereby individuals can compel governmental units to correct or amend incomplete or inaccurate information in records pertaining to them.

Sec. 40.25.070. Establishes court procedures to require the governmental unit to release the records.

Sec. 40.25.080. Gives a civil cause of action against a person wrongfully withholding records.

Sec. 40.25.090. Definitions section.

Sec. 2 and 3. Amends existing law AS 44.62.310 entitled "Agency meetings public" to remove the authority of a municipality to hold executive sessions other than in accordance with state law and adds a new subsection dealing with the State open-meeting law.

Sec. 4. Changes Rule 65 of the Alaska Supreme Court Rules.

Sec. 5. Repeals the existing "open records" statutes.

Sec. 6. Provides for the effective date of July 1, 1981.

SEN. FISCHER, CHAIR

SEN. BRADLEY

SEN. COLLETTA

SEN. ELIASON

SEN. STIMSON

Barry Stern, representing the Dept. of Law, emphasized in his testimony that existing statutes addressing freedom of information are inadequate. He further remarked that the constitutional provision for a right to privacy frequently conflicts with the public's right to know. The concept of the right to privacy is left up to the agency to decide. Mr. Stern stressed the need for guidelines in determining the scope of a person's right to privacy. He also maintained that the exemptions section of the legislation is too specific, and agreed to transmit to the committee written suggested language to amend this section.

Elizabeth Cuadra, of the League of Women Voters of Alaska, gave brief testimony expressing support for SB 90 and for accessibility of records.

Patty Moriarty, of the Ombudsman's office, provided testimony from two perspectives: that of the Ombudsman's office, and that of the complainant seeking assistance from the Ombudsman's office. She read from the Ombudsman's report of Hawaii which bore the premise that information should be shared between the people and their elected representatives for decision-making purposes. Ms. Moriarty proposed language changes for specific sections of SB 90.

Earl Deater, of the Operating Engineers Union-302, testified in favor of SB 90, pointing out passage of such a measure would assist people in many professions in obtaining information.

Lee Sharp, attorney for the City and Borough of Juneau, provided testimony on the bill regarding the effect it would have on municipalities. Mr. Sharp maintained that local government should make decisions on how local records should be made available. He pointed out that additional costs would be created by the passage of SB 90 in terms of "search costs" and duplication costs. Mr. Sharp concluded his testimony with the statement that he agreed that public records should be made public, but that some things must rest at the local level.

Roland Shanks, of the Alaska Environmental Lobby, provided brief testimony in support of the bill and the intent behind it, noting that "public corporations" were not included in the list of people and agencies covered by the bill.

Chairman Fischer adjourned the meeting in light of the fact that scheduled time had expired.

Alaska State Legislature

Senate

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Feb. 5, 1981 — Capitol Building

1:30 p.m. — Room 118

MEMBERS PRESENT	MEMBERS ABSENT
SENATOR FISCHER, CHAIRMAN	SENATOR ELIASON
SENATOR BRADLEY	SENATOR STIMSON
SENATOR COLLETTA	

AGENDA — All-sites teleconference on SB90 "An Act relating to privacy and public information; and changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure."

Chairman Fischer opened the meeting and introduced SB90. He also called for those testifying and any others to send in written comments by the end of next week.

Testimony was received from the following:

From Fairbanks:

Dean Gottehrer, Task Force for
Professional Journalists
Box 74573
Fairbanks 99701

Susan Fischer
Society of Professional Journalists
Box 710
Fairbanks 99701

From Anchorage:

Howard Weaver
Daily News
Pouch 6616
Anchorage 99502

From Ketchikan:

Lew Williams, Editor
Ketchikan Daily News
501 Dock Street
Ketchikan 99901

Exhibit B

From Kodiak:
Jon Newstrom
KMXT Radio
P. O. Box 484
Kodiak 99615

Deborah Nelson
Kodiak Daily Mirror
P. O. Box 1307
Kodiak 99615

From Homer:
Annabel Lund
Managing Editor
Homer News
Box 254
Homer 99603

From Fairbanks:
Scott Sterling
224 Nerland
Fairbanks 99701

Jamie Bryson
860B Yak Estates
Fairbanks 99701

From Sitka:
Ray Medlin
Box 1339
Sitka 99835

From Skagway:
Lucinda Hites
Box Three
Skagway 99840

From Soldotna:
Steve Rinehart
The Peninsula Clarion
Box 1341
Kenai, Alaska 99611

From Anchorage:
Bob Lohr
Rural Cap
327 Eagle St.
Anchorage

From Palmer/Wasila: Mark Harris

From Haines:
Leo Land
Box 122
Haines 99827

From Nome:
Stanley Summers
KICY AM/FM
Box 820
Nome, Alaska 99762

From Fairbanks: Kent Sturgis
Box 710
Fairbanks 99701

From Anchorage: Kay Fanning
Alaska Newspaper Assoc. & Daily News
Pouch 6616
Anchorage 99502

Ted Berns, Attorney
Mun. of Anchorage
Pouch 6-650
Anchorage 99501

From Fairbanks: Tom Knapp
Box 970
Fairbanks 99701

Bruce Wammack
913 Noble St.
Fairbanks 99701

From Anchorage: Matt Zencey
AKPIRG
Box 1093
Anchorage 99510

Mark Beltz
343 W. 12th Ave.
Anchorage 99502

From Ketchikan: Christine M
KINB Radio
Ketchikan 99901

Their comments are summarized as follows:

All testimony was in favor of the bill and strongly endorsed its passage. The majority felt that a definition of "right of privacy" needed to be established, that the question of fees for documents be looked at (it should not be a barrier), and that local municipalities and boroughs should not be able to opt out. Other testimony addressed the problem of tampering with public records and the problems that would occur if

if original entry police records were exempt from disclosure. Further testimony touched on difficulties with "sexist pronouns" in the language of the bill and the inclusion of state employees' performance records as public documents.

Chairman Fischer concluded the teleconference thanking participants for their constructive comments and requested written testimony be sent to the Senate State Affairs Committee by the end of next week.

M E M O R A N D U M

To: Senator Fischer

From: Nan Groszek

Date: 1/28/81

Re: Overview of Senate Bill 90, "An Act relating to privacy and public information; and changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure."

AS 40.25.010

Sec. 40.25.010 states the policy of the Act. The intention is that all documents in the possession of governmental units belong to the public. A person's right to privacy pursuant to constitutional mandate is specifically stated in subsection AS 40.25.010 (5). delete line

AS 40.25.015

Sec. 40.25.015 (a) states that all records of governmental units except those exempted by law are open to any person for inspection and copying during regular business hours. The section would exempt those records that infringe on a person's right to privacy. The custodian of the records is also held responsible for the preservation and the safekeeping of these records.

(b) This section states that the custodian of the records has a duty to make the records available for inspection and reproduction. It allows the custodian to charge a fee for furnishing a copy of the record. The custodian would also have the duty to provide facilities for the inspection so that the