

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

2082 SSA SB 652 - SB 689

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K--STATE CAPITOL
JUNEAU, ALASKA 99811

April 2, 1982

Senator Vic Fischer, Chairman
Senate Affairs Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Proposed changes to SB 652 (Confidentiality
of trade secrets)

Dear Senator Fischer:

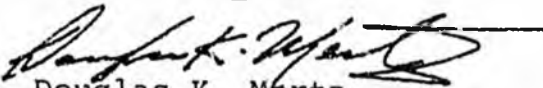
At the committee hearing on SB 652, you asked me to draft suggested changes to the bill to take care of two problems in the current version. Enclosed is a redraft which deals with two areas: 1) it clears up the definition of what type of information is entitled to confidentiality, by substituting language which is used in the caselaw to define "trade secrets"; and 2) it provides a procedure for allowing the department to dispute a designation of information as a trade secret.

In the draft, the new material is underlined and deleted material is bracketed.

Let me know if there is anything more I can do.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Douglas K. Mertz
Assistant Attorney General

DKM/jb

Enclosure

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

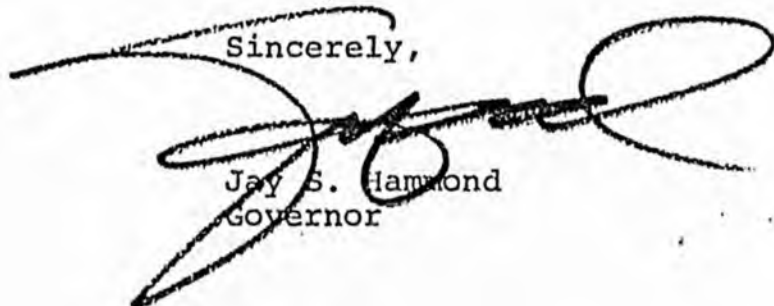
Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to preservation of the confidentiality of trade secrets and other proprietary information submitted to the Department of Environmental Conservation. The bill improves access by the department to confidential information by assuring the person supplying the information that confidentiality would be preserved. This is especially important to effectively regulate air and water quality and solid waste discharges.

The bill is very similar to the provisions of SB 90 and HB 7 which are currently in the Senate Rules and House Judiciary committees, respectively. The provisions of AS 46.03-.865(a), (b), (c) and (e) in sec. 1 of the bill are nearly identical to the provisions of AS 40.25.015(e)(11), (f), (g), and (h), respectively, which would be enacted by SB 90.

The primary differences between this bill and SB 90 are that this bill (1) deals only with trade secret information submitted to the Department of Environmental Conservation; (2) includes trade secrets voluntarily submitted to the department; (3) requires a written request of confidentiality; (4) allows release of the confidential information sooner than 20 years after submittal, upon authorization of the person supplying the information; and (5) requires the department to provide a general description of all information which it is keeping confidential.

Sincerely,



Jay S. Hammond
Governor

IV. DATE January 5, 1982

PREPARED BY Lynn H. Suksdorf

AGENCY Dept. Environmental Conservation

PHONE 465-2640

Original: Legislative Finance
cc: Budget and Management

(Direct Legislator Named)

Introduced: 1/12/82
Referred: State Affairs and
Labor & Commerce

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 652

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to confidentiality of trade secrets
7 supplied to the Department of Environmental Conserva-
8 tion."

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

10 * Section 1. AS 46.03 is amended by adding a new section to read:

11 Sec. 46.03.865. CONFIDENTIAL INFORMATION. (a) The department
12 shall, upon written request of the person supplying the information,
13 preserve the confidentiality of trade secrets, privileged information,
14 and confidential, commercial, financial, or engineering information
15 furnished voluntarily or in compliance with a statute or regulation.

16 (b) Information kept confidential by the department under (a) of
17 this section becomes public 20 years after submittal unless the person
18 who supplied the information authorizes earlier release in writing.

19 (c) Information kept confidential by the department under (a) of
20 this section may be released for valid statistical or other information
21 gathering purposes if

22 (1) information which would tend to identify the person to
23 whom the record pertains is deleted; and

24 (2) disclosure is made in a manner which would not compromise
25 or defeat the purposes of a statute designed to maintain the confiden-
26 tiality of the information.

27 (d) A general description of information kept confidential by the
28 department under (a) of this section must be available to the public
29 upon request.

1 (e) Nothing in this section prohibits the release or production of
2 subpoenaed records or information to a court or state or municipal
3 agency.
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THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Senate Bill 653

Title "An Act relating to public employees under the Public Employment Relations Act."

Requested by Senate State Affairs

Date April 2, 1982

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Wage and Hour

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		87.0	95.7	105.3	115.8	127.4
200 TRAVEL		22.9	25.2	27.7	30.5	33.5
300 CONTRACTUAL		43.0	47.3	52.0	57.2	63.0
400 COMMODITIES		3.5	3.9	4.2	4.7	5.2
500 EQUIPMENT		2.6	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	159.0	172.1	189.2	208.2	229.1

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	159.0	172.1	189.2	208.2	229.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		2.0	2.0	2.0	2.0	2.0
PART TIME						
TEMPORARY						

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

Other states which have enacted PERA type laws that cover teachers have advised us that during the first few years the laws were in effect, management or employee representatives of 50% of the affected school districts filed unfair labor practice charges each year which resulted in hearings before the labor relations agency. The average hearing lasted six hours (or one day).

Assuming that the contracts of approximately 26 of Alaska's 52 school districts come up for renegotiation each year and that our experience would be comparable to that of other states, we can expect that 13 of the school districts will generate unfair labor practice charges requiring hearing before the labor relations agency. (Continued)

IV. DATE April 2, 1982

PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

The Legislature of the State of Alaska
Twelfth Legislature
Fiscal Note
Bill/Resolution No. CS SB 653

III. Analysis (Continuation)

In addition to the charges associated with the two Wage and Hour Investigators are costs to contract for a hearing officer on 13 occasions (\$9,750) and court reporting services including transcripts (\$5,325), plus printing (\$1,600) and legal costs (\$6,000). A total of \$5,600 has been included in travel for the hearing officer's transportation and per diem (10 trips of 2 days each = $(400 + 80 [2]) 10 = 5,600$).

Assumes an inflation rate of 10% per annum.

Assumes an effective date of July 1, 1982.

POSITION TITLE				RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.	
1 Wage and Hour Investigator II				18A	G	Anchorage				
TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12	PAGE/LINE	LEG.		
2 PFT	12	CS SB 653	Not assigned							
TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION: This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The Investigator will travel extensively throughout the state performing these investigations and hearings. Personal Services calculations are based on the salary schedule effective 3/16/82. Travel funds allow for 12 - 4 day trips costing an average of \$400 @ for transportation and per diem of \$320 (4 days X \$80) Contractual services costs are comprised of telephone charges, equipment rent, word processing costs, management services support of \$3,900, and \$3,200 for space rent. The equipment costs for a desk, file, recorder, transcriber, partitions, and bookcase are one-time charges.					
1		2		3						
PERSONAL SERVICES:										
4 SALARY 2838/month		34,056								
5 BENEFITS .1592		5,422								
6 SBS		2,088								
7 FIXED BENEFITS		1,920								
8 TOTAL PERSONAL SERVICES		01 43,486								
9 TRAVEL		02 8,640								
10 CONTRACTUAL		03 10,150								
11 COMMODITIES		04 1,750								
12 EQUIPMENT		05 1,300								
13 OTHER										
14 TOTAL COST		65,326								
RECEIPT CODE	FUNDING SOURCE									
15	FED RCPTS. 1002									
16	GF MATCH. 1003									
17 100	GEN. FUND 1004			65,326						
18	I-A RCPTS. 1005									
19	PGM RCPTS 1028									
20	OTHER									
21	CONTINUATION			FOR B&M USE ONLY						
22	ADDITION									
4A KEY NUMBER				COLUMN NO.						

AGENCY Labor PROGRAM Worker Protection

BRU Wage and Hour Administration

COMPONENT Wage and Hour Administration

13 REQUEST FOR NEW POSITION.

FY 83

Page 1 of 2 REVISED DATE _____

1	POSITION TITLE	RANGE/STEP	BARG. UNIT	LOCATION	APPROV.	DISAPP.
2	Wage and Hour Investigator II	18A	G	Anchorage	GOV.	
2	TYPE OF POSITION	STAFF MONTHS	RP No.	FCN No.	PRIORITY	FORM 12 PAGE/LINE
	PFT	12	CS SB 6-3			LEG.

3	TYPE OF EXPENDITURE	AMOUNT
1	2	3
4	PERSONAL SERVICES:	
	SALARY 2838/month	34,056
5	BENEFITS .1592	5,422
6	SBS	2,088
7	FIXED BENEFITS	1,920
8	TOTAL PERSONAL SERVICES 01	43,486
9	TRAVEL 02	8,640
10	CONTRACTUAL 03	10,150
11	COMMODITIES 04	1,750
12	EQUIPMENT 05	1,300
13	OTHER	
14	TOTAL COST	65,326

JUSTIFICATION:

This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The Investigator will travel extensively throughout the state performing these investigations and hearings.

Personal Services calculations are based on the salary schedule effective 3/16/82.

Travel funds allow for 12 - 4 day trips costing an average of \$400 @ for transportation and per diem of \$320 (4 days X \$80)

Contractual services costs are comprised of telephone charges, equipment rent, word processing costs, management services support of \$3,900, and \$3,200 for space rent.

RECEIPT CODE	FUNDING SOURCE	AMOUNT
15	FED RCPTS. 1002	
16	GF MATCH. 1003	
17	100 GEN. FUND 1004	65,326
18	I-A RCPTS. 1005	
19	PGM RCPTS 1028	
20	OTHER	

The equipment costs for a desk, file, recorder, transcriber, partitions, and bookcase are one-time charges.

1	CONTINUATION	FOR B&M USE ONLY
2	ADDITION	

4A KEY NUMBER COLUMN NO.

AGENCY Labor PROGRAM Worker Protection

BRU Wage and Hour Administration

COMPONENT Wage and Hour Administration

13 REQUEST FOR NEW POSITION.

FY 83

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
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FISCAL NOTE

I. REQUEST

Bill/Resolution No. None assigned at present

Title Amendment to Sect. 1 AS 23.40.200 (b)

Requested by Division of Emergency Services

Date 03 Dec 1981

II. FISCAL DETAIL

Agency Affected Division of Emergency Services, Department of Military Affairs

Program Category Affected Life and Property Protection

BRU, Program, or Subprogram(s) Affected Disaster Planning and Control

(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	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

This legislation is an amendment to existing statute Sect. 1 AS 23.40.200 (b).

The designation of Division of Emergency Services personnel as emergency services employees under the Public Employment Relations Act would assure the continuation of services assigned to the Alaska Division of Emergency Services (ADES) during any labor unrest or strike situation.

These assigned duties include 24 hour ADES duty officers, statewide warning (24 hour) system, disaster response and recovery and other related actions made necessary by natural or man caused emergencies or disasters. The impact on the citizens of Alaska could be an increase in loss of life and property damage if adequate and timely response is not available during disaster situations.

Enactment of this legislation will not result in an increase of funding currently authorized for the Division of Emergency Services.

IV. DATE 03 Dec 1981 PREPARED BY Lloyd D. Turner, Deputy Director

AGENCY Division of Emergency Services

Original: Legislative Finance

PHONE 376-3061

cc: Budget and Management

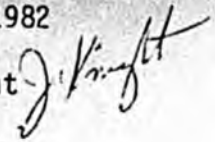
Prime Sponsor (First Legislator Named)

Bill No. Senate Bill No. 653

Date January 21, 1982

Title "An Act relating to emergency services employees under the Public Employment Relations Act; and providing for an effective date."

Contact: Judy Knight
465-2700
Dale Cheek
465-4870



Section 1. The amendment to AS 23.40.200(b) adds the Department of Military Affairs' emergency services employees to the list of those public employees who are prohibited from striking.

This amendment has no programmatic effect on the Department of Labor, as the Labor Relations Agency for political subdivisions of the state, because Department of Military Affairs' emergency services employees are state employees.

The department supports this amendment.

POSITION PAPER/Department of Labor

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

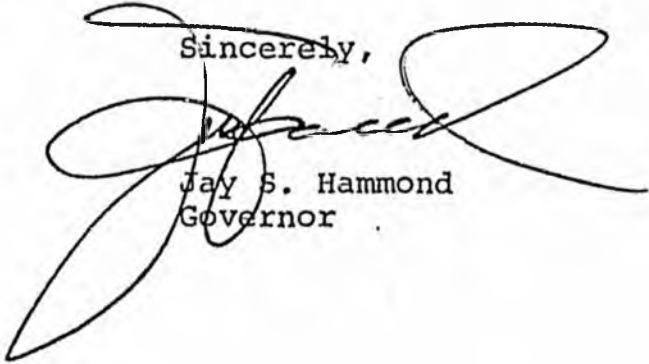
January 11, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which would prohibit strikes by employees of the division of emergency services of the Department of Military Affairs. This amendment to AS 23.40.200(b) would put those employees in the same category as police, fire, correctional, and hospital employees. It is necessary for the people of the state to be assured that these employees will be on the job, especially in times of emergency.

Sincerely,



Jay S. Hammond
Governor

Enactment of this legislation will not result in an increase of funding currently authorized for the Division of Emergency Services.

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MEMORANDUM

State of Alaska

TO: Senator Victor Fisher

DATE: April 16, 1982

FILE NO:

TELEPHONE NO:

FROM:

Dana Fabe
Dana Fabe
Public Defender

SUBJECT: SSSB 685

Thank you for inviting me to comment on the sponsor substitute for Senate Bill No. 685, "An Act relating to unlawful conduct of minors." Our agency is appointed to represent juvenile offenders who cannot afford to retain an attorney. It is my personal opinion that the bill has a number of problems.

The statutory scheme for juvenile offenders now provides that where the court finds any juvenile offender to be untreatable, juvenile jurisdiction may be "waived" and the offender tried as an adult. SSSB 685 would change the law to automatically waive juvenile jurisdiction for all children 16 or over who have been charged with Class A or unclassified felonies. The bill further provides that if the child wishes to petition the court to retain juvenile jurisdiction over him, he may do so but the burden of proving amenability to treatment is his. I see the following problems with this approach:

1. Shift of focus from treatability of offender. The presumptive sentencing provisions of the adult criminal code focus the court's attention almost entirely on the circumstances of the offense rather than the offender. Such factors as the defendant's age, his family background, any drug or alcohol problems which he might have, and his attitude towards treatment and rehabilitation are ignored by the presumptive sentencing provisions of the adult criminal code. These factors are routinely focused upon in the juvenile justice system. It would appear that if there is any place in the system that the rehabilitation of the individual offenders should be emphasized it is in the juvenile justice system.

Many of our juvenile clients have been physically and psychologically abused by their parents. Many have drug and alcohol problems. Many are simply immature and unduly subject to peer pressure. These factors are not recognized as mitigating factors for sentencing under the adult criminal code. Yet, they may be the primary motivators for an offense such as robbing a liquor store in order to obtain alcohol. Thus, my first problem with this bill is that it would radically shift the focus from treating juveniles and preventing them from re-entering the system, to punishing them as adults without concern for the motivating factors behind the offense or amenability to treatment.

2. Increased jail sentences. The adult criminal code establishes severe sentences of presumptive or mandatory incarceration for many persons convicted of Class A or unclassified felonies. A 16 year old who robs a liquor store in order to obtain alcohol and has a firearm in his possession would receive a mandatory presumptive term of six (6) years without the possibility of parole under the adult criminal code.

The bill provides that that 16 year old would remain in a juvenile institution for a period before being transferred at the age of 19 to an adult penitentiary. This sentencing scheme would certainly alter the current treatment emphasis at a juvenile facility such as McLaughlin. Persons with lengthy periods of incarceration would be mixed with juvenile runaways and other kids who do not have serious problems.

Furthermore, a 19 year old youth who is transferred into an adult correctional facility and incarcerated with adult offenders may find himself abused physically and psychologically by the adult inmates. In my opinion, incarceration of youthful offenders who committed crimes as juveniles with adults would be counter-productive to the goals of rehabilitation and reducing recidivism.

3. Waiver hearings -- increased court time. Because this bill sets up a procedure by which any juvenile may challenge his being waived into adult court, the number of waiver hearings are going to increase drastically.

As the law presently stands, professionals from the juvenile intake division and Health and Social Services make a screening determination regarding whether a child is a serious enough offender to be waived into adult court. The primary focus is his amenability to treatment. Waiver hearings are held in the cases where those professionals feel that a juvenile is not amenable to treatment. The revised law will necessitate waiver hearings in virtually every case.

A defense attorney who represents a 16 year old charged with a serious felony will most certainly have to challenge the waiver into adult court in order to effectively represent his client and protect his client's exposure. If the presumptive waiver procedure were not challenged, and the child were later incarcerated for a lengthy period of time, post-conviction relief actions regarding the effectiveness of counsel would certainly result, taking up the time of the appellate courts. Waiver hearings would probably involve psychiatric testimony and testimony of family and friends of the juvenile. These hearings would

be time consuming, would occur in almost all cases, and would often result in appeals. This is not an obstructionist view of the system; it is a realistic one, since post-conviction relief challenges on the effectiveness of counsel would certainly result where no attempt was made to keep the child within the juvenile justice system.

The courts do waive juvenile offenders who are not amenable to treatment under the present law. For example, I represented a client charged with killing two taxi drivers who was waived into adult court in a summary fashion based on his prior contact with the juvenile justice system and the nature of the offense. See: J.R. v. State, 616 P.2d 865 (Alaska 1980). This is not an isolated case. See e.g. N.P.A. v. State, 604 P.2d 599 (Alaska 1980). If the legislature wishes to waive more juvenile offenders into the adult court system, changes should be made in the waiver standards; perhaps to make it easier to waive a 16 year old charged with Class A or unclassified felony into adult court.

Again, I appreciate your asking my opinion on this very important matter. If I can answer questions about the specific workings of our office, particularly in terms of juvenile offenders, please do not hesitate to call me.

SUMMARY OF SSSB 685

There are three separate and distinct concerns addressed by this legislation; 1.) the prosecution of certain minors in adult criminal court, 2.) the disclosure of the final disposition of cases involving minors to victims and 3.) adjusting the maximum allowable recovery amount to victims of juveniles who destroy property.

*Sec. 1. provides that juveniles convicted in adult court may be sentenced to juvenile facilities until age 19. Further provides that the juvenile may be transferred to an adult facility at age 19 if more than one year remains for the term of imprisonment.

*Sec. 2. allows victims of juveniles to know the disposition of cases informally adjusted.

*Sec. 3. repeals and reenacts the provisions relating to waiver of juvenile jurisdiction. Provides that minors 16 years or older shall be tried as adults for unclassified and Class A felonies in addition to the waiver standards in current law.

*Sec. 4. provides method for juveniles waived under 47.10.060(a)(1) to petition the court to reopen the case as a juvenile proceeding.

*Sec. 5. provides that victims may know the disposition of cases adjudicated under juvenile hearings.

*Sec. 6. allows information discussed in Sections 2, 5, and 7 to be released.

*Sec. 7. provides that victims may know the disposition of juvenile detention hearings.

*Sec. 8. raises the recoverable amount from \$2000 to \$5000 in civil actions against parents of minors who destroy property.

*Sec. 9. sets out exemptions for parents of emancipated minors or minors not under parental control from provisions of Section 8. Also allows for civil recovery from emancipated juveniles.

CLASSIFICATION OF OFFENSES IN REVISED CRIMINAL CODE

UNCLASSIFIED FELONIES

Murder in the First Degree

AS 11.41.100

20-99 years

Murder in the Second Degree

AS 11.41.110

5-99 years

Kidnapping

AS 11.41.300

5-99 years

CLASS A FELONIES

Attempted Murder or

Kidnapping

AS 11.31.100(d) (1)

Solicitation of Murder

or Kidnapping

AS 11.31.110(c) (1)

Manslaughter

AS 11.41.120

Assault I

AS 11.41.200

Sexual Assault I

AS 11.41.410

Robbery I

AS 11.41.500

Arson I

AS 11.46.400

Escape I

AS 11.56.300

Criminal Possession of
Explosives with Intent
to Commit Murder or
Kidnapping

AS 11.61.240(b) (1)

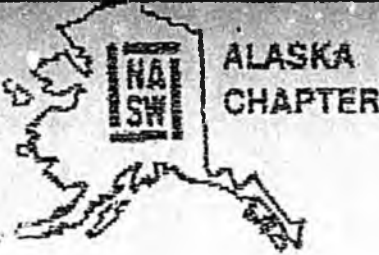
* SECTION 8

<u>PERCENT CHANGE IN CONSUMER PRICE INDEX</u>					
	<u>Year</u>	<u>Dec. -</u>		<u>Year</u>	<u>Dec. -</u>
	<u>Average</u>	<u>to Dec.</u>		<u>Average</u>	<u>to Dec.</u>
1970	5.9%	5.5%	1976	5.8%	4.8%
1971	4.3%	3.4%	1977	6.5%	6.8%
1972	3.3%	3.4%	1978	7.7%	9.0%
1973	6.2%	8.8%	1979	11.3%	13.3%
1974	11.0%	12.2%	1980 est	13.4%	12.5%
1975	9.1%	7.0%	1981 est	10.0%	10.5%

The original limit (\$2000) was adopted in 1967. The cumulative rate of inflation since that time exceeds 100 %. In order, therefore, to reflect the value of 1967 dollars the limitation should be approximately doubled. The proposed amendment to \$5000 anticipates a continued decline in the value of dollars in the future.

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NATIONAL
ASSOCIATION OF
SOCIAL WORKERS, INC.

P.O. BOX 10430
FAIRBANKS, ALASKA 99701
907-456-5914

April 13, 1982

Senator Vic Fischer
Chairman- State Affairs Committee
Juneau, Ak. 99811

Dear Senator Fischer:

The Alaska Chapter of the National Association of Social Workers believes the community is adequately protected by a juvenile court which is empowered to waive a hardened juvenile offender to adult court. Rather than placing all juveniles accused of Class A felonies over to adult court, the statute should be amended to provide clearer direction as to when such waivers should occur. The Alaska Chapter of NASW opposes SB 685 on the basis that a less cumbersome remedy to the problem of protecting the public from hardened juvenile offenders is in order.

We support that section of the bill which would disclose information concerning the disposition of the case to the victim of the juvenile crime committed. However, we oppose the release of the names of juvenile offenders to the victim on the basis that juvenile offenders should be provided with the maximum opportunity for rehabilitation and a chance to start over again.

If SB 685 in its present form is passed or similar legislation, we strongly recommend that juvenile offenders be sent to juvenile institutions rather than being incarcerated with adult offenders because of the potential for them to be sexually or physically abused.

We also recommend that Section 21A.00 be amended by adding for consideration of the judge the best interests of the minor.

Finally, we strongly oppose the piecemeal approach to changing juvenile laws and recommend the reconstruction of a juvenile law through the taking a comprehensive look at juvenile law and recommending changes to the legislative body.

Sincerely,

Marie Schindler, MEd.
Executive Director

Alaska Chapter - National Association of Social Workers

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A PROFESSIONAL CORPORATION

PSYCHIATRY

ARON S. WOLF, M.D., F.A.P.A.
JAMES McGUIRE, M.D.
JERRY SCHRADER, M.D.

CLINICAL PSYCHOLOGY

JAMES HARPER, Ph.D.
BRUCE N. SMITH, Ph.D.

PSYCHIATRIC SOCIAL WORK

NICKI J. NIELSEN, M.S.W., A.C.S.W.
HELEN CRAIG, M.S.W., A.C.S.W.
DONALD SPARROW, M.S.W., A.C.S.W.
RANDALL JONES, M.A.
ELIZABETH ROBINSON, M.S.W., A.C.S.W.

READING THERAPY

TROY SULLIVAN, Ed.D.

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Wasilla, Alaska 99687
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(907) 376-2447

April 13, 1982

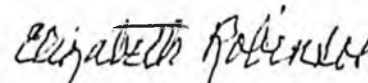
Senator Vic Fischer
Senate State Affairs
Pouch V
Juneau, AK 99811

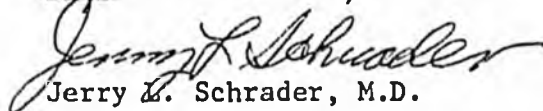
Dear Senator Fischer:

We the undersigned urge you to oppose passage of Senate Bill 685 which addresses the issue of treating juveniles as adults in the criminal system.

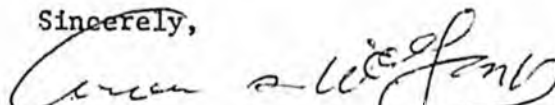
In reality, juveniles can be waived into the adult system under the present statute at the discretion of the judge. Rather than instituting new statutes to solve the problem, it may be more worthwhile re-evaluating the way the present law is used. This is where the changes should occur.

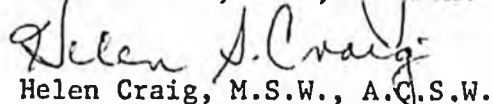
Thank you for your consideration of this matter.

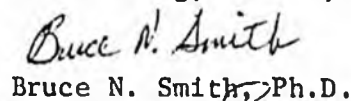

Elizabeth Robinson, A.C.S.W.

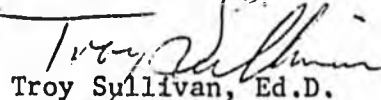

Jerry L. Schrader, M.D.

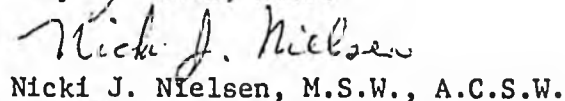
Sincerely,

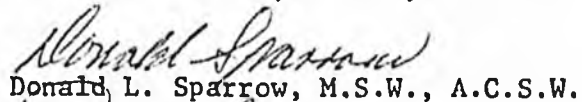

Aron S. Wolf, M.D., F.A.P.A.

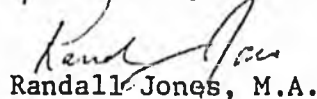

Helen Craig, M.S.W., A.C.S.W.

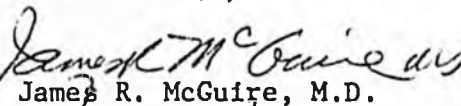

Bruce N. Smith, Ph.D.

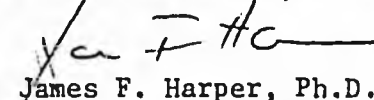

Troy Sullivan, Ed.D.


Nicki J. Nielsen, M.S.W., A.C.S.W.


Donald L. Sparrow, M.S.W., A.C.S.W.


Randall Jones, M.A.


James R. McGuire, M.D.


James F. Harper, Ph.D.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____ Senate Bill No. 685
Title "An Act relating to unlawful conduct of minors."
Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety
Program Category Affected Administration of Justice/Public Protection
BRU, Program, Or Subprogram(s) Affected Alaska State Troopers
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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 Source)						
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

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

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

No fiscal impact is anticipated.

IV. DATE February 3, 1982 PREPARED BY Francis C. Allan
AGENCY Department of Public Safety
PHONE 269-5691
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

April 13, 1982

Senate State Affairs Committee
Senator Vic Fisher, Chairman,
Pouch V
Juneau, AK 99811

Cecilia Kleinkauf
4201 McInnes
Anchorage, AK

Dear Senator Fisher and Members of the Senate State
Affairs Committee:

I am writing to express my concerns about Sponsor Substitute for SB 685 which is now before you. This legislation proposes changes in present state law relating to the court's jurisdiction over minors who are charged with certain crimes. At present, the statutes provide that any minor regardless of the crime he/she has committed, is dealt with by the juvenile court unless a hearing determines that the minor should be prosecuted as an adult. In that event, the court "waives" jurisdiction of the juvenile over to the adult courts. In my opinion, present statutes provide adequately for the protection of both the juvenile and society, and do not need to be changed.

Section 3 of Sponsor Substitute for SB 685 changes the present statute to provide an automatic waiver to adult court for juveniles accused of certain felonies without a hearing. Section 4 provides for hearing only upon petition by the juvenile within 10 days of the waiver. The hearing is not automatic and requires that a juvenile have legal counsel in order to assure he/she can take advantage of this provision. I have great concern that the juvenile's right to an attorney under juvenile statutes will expire under the present version of the bill, and also that a public defender might not yet be appointed, leaving the juvenile without legal representation during the short, 10-day period during which he/she can petition for a hearing.

Should the juvenile secure a hearing under Section 4, the considerations of the court do not include a requirement to consider the best interests of a minor -- an amendment I believe should be made to Section 4.

Sections 5 and 6 of the Bill provide for information to the victim of the crime, which should not include release of the name of the juvenile, in my opinion. Section 6 appears to repeal that protection and I oppose it.

page 2

If, in the legislature's wisdom, it believes this legislation is needed, then at all costs I urge you to see to it that juveniles are not confined in adult prisons -- where research has confirmed they become immediate victims of homosexual rape. Sponsor Substitute for SB 685 does provide in Section 1 that a juvenile waived to adult court shall be confined in a juvenile facility until reaching the age of majority. If you approve this Bill, please retain that section and make it mandatory for the court, not discretionary.

If the legislature believes that present children's statutes need to be amended, then I suggest a more thoughtful and comprehensive approach. In 1975 and 1976 when reform of children's law was deemed necessary, the legislature established the Children's Code Task Force to review those statutes, study other State's laws and recommend coordinated and comprehensive revisions. I had the privilege to be a member of that Task Force and believe it to be a rational and progressive method of statute review which has obvious advantages over a piecemeal approach. I urge you to consider establishing a similar commission or task force to recommend needed statute changes to the legislature. The issues addressed in Sponsor Substitute for SB 685, together with other issues legislators believe need attention, could be assigned to such a task force with requirements for a report to the First Session of the 13th Alaska Legislature.

In closing, may I reiterate that the very small number of juveniles represented by this legislation and the adequacy of present statutes for dealing with these cases in my opinion make this legislation unnecessary.

Sincerely,

Cecilia Kleinkauf
Cecilia Kleinkauf, MSW, ACSW
Associate Professor
Chair, Social Work Department
University of Alaska

CK:jf

cc: Senator Rodey

NASA POSITION PAPER

Anchorage Unit of the Alaska Chapter of the National Association of Social Workers was actively involved in the 1975-76 Children's Code Task Force and continues its strong interest in the area of children and the law.

The Anchorage Unit of NASA wants to repeat the Chapter's position on the prosecution of juveniles, which is that the community can be adequately protected and juvenile crime addressed by a juvenile court which is empowered to waive a hardened juvenile offender to adult court and when the juvenile court has clear direction from the statutes when such waivers should occur.

Sponsor Substitute for SB 585 addresses the concerns that juveniles not be held in adult court for every offense; however, the Anchorage Unit believes that the proposed legislation indulges in "overkill." Very few children would be affected by SSSB 585. The justice system should be asked to provide accurate statistics, but it is our sense that the numbers of children involved are very low. With so few children involved, we feel that the present statute should adequately allow the court system to address the few cases that this bill seems concerned with.

Additionally, the philosophy of the juvenile court has been to allow for some deviance and experimentation on the part of young people before they assume adult responsibilities. While there may be some justification for propelling a very few juveniles into adult status, we believe that this should be done only after careful, individual attention is given to such a case. An automatic waiver is not in the best interests of the community.

Finally, we suggest that the time has come for a reactivation of a Children's Code Task Force by the Legislature, in order to effect a comprehensive, systematic examination and possible revision of laws affecting children in this state.

L. Wesley for Elizabeth M. Robinson

Elizabeth M. Robinson, ACSW
Co-Chair, Anchorage Unit
South Central Representative, State Board
National Association of Social Workers

2061 Cliffside Drive
Anchorage, AK 99501
907-279-8873

MSG 82-00020776 PRTY 1 04/13/82 17:44:04 ORIG: LA01 IN= 0006 OUT= 01
FROM: CINDY, ANCH TO: JNU INFO
TARGET: LJH2 SUBJ: POM PAGE 00

TO: SENATOR FISCHER

FROM: LIANNE WESLEY, P.O. BOX 1251, ANCH. 99510 349-1478 HM

URGE THAT YOU REJECT SSSB 685. THE PRESENT STATUTE IS ADEQUATE TO DEAL WITH MINORS WHO SHOULD BE BOUND OVER TO ADULT COURT. SENDING JUVENILES TO ADULT JAILS DOES NOT PROTECT THE COMMUNITY OR THE JUVENILES. URGE YOU RECALL A JUVENILE JUSTICE TASK FORCE.

MSG 82-00020799 PRTY 1 04/13/82 18:05:34 ORIG: LA02 IN= 0017 OUT= 0136
FROM: CHERYL/ANCH TO: JNU INFO
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: SENATORS FISCHER, COLLETTA, BRADLEY, ELIASON, STIMSON

FROM: FRED BECKER
3601 E 15TH
ANCHORAGE AK 99504 272-9957

Fingerprint

I SUPPORT ~~SB 688~~ AND VERY SINCERELY HOPE THAT YOU DISTINGUISHED GENTLEMEN DO SO ALSO.

FROM: RONALD IRVINE, 926 W. 26TH APT 202, ANCH. 99503 279-4422 EX 210

I FULLY SUPPORT ~~HB 344~~ AND WISH YOU LUCK ON GETTING IT PASSED.

FROM: BARBARA MC CULLOUGH, 30-330 A CHERRY DR., ELMENDORF A.F.B. 99506
279-4422 EX 210

I FULLY SUPPORT ~~HR 344~~. I AM A VICTIM OF RAPE AND EVEN THOUGH I WAS ABLE TO IDENTIFY THE ASSAILANT, HE WAS NOT APPREHENDED DUE TO A LACK OF INTEREST FROM THE STATE POLICE.

FROM: HELEN ORMSBY, 2921 MEADOWCREEK DR., EAGLE RIVER, 99577 694-2823

~~SSSB 685~~

THE PRESENT STATUTES REGARDING JUVENILE OFFENDERS ARE ADEQUATE. JUVENIL CAN ABE WAIVED TO CRIMINAL COURT BY THE JUDGE AFTER A HEARING. PLEASE DO NOT AUTOMATICALLY TURN CHILDREN OVER TO THE ADULT COURT WITHOUT A HEARING. I URG YOU TO VOTE AGAINST THIS BILL.

N file

MSG 82-00019442 PRTY 1 04/06/82 17:34:31 ORIG: LA01 IN= 0006 OUT= 0110
FROM: CINDY, ANCH TO: JNU INFO
TARGET: 1JH2 SUBJ: POM PAGE 000

TO: SENATORS FISCHER, COLLETTA, ELIASON, BRADLEY, RODEY, STIMSON, BENNETT
PARR, AND RAY

FROM: ROBERT SYTHE, SRA BOX 37, ANCH. 99507 344-1735 HM

PLEASE DO NOT SUPPORT SB 685. THE IMPACT OF PROSCUTING ALL JUVENILE
OFFENDERS, AGE 16 AND OLDER, IN THE ADULT CRIMINAL JUSTICE SYSTEM HAS NOT
BEEN ADQUATELY EXPLORED.

MSG 82-00015389 PRY 1 03/19/82 15:17:59 ORIG: LA02 IN= 0002 OUT= 0077
FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: POM PAGE 0003

TO: SENATORS FISCHER AND RODEY
FROM: MIRIAM NERZ
1340 E. 12TH
ANCHORAGE 99501 (H) 279-6287

I DO NOT SUPPORT SB 685. PLEASE STRENGTHEN CURRENT WAIVER SYSTEM FOR TRYING JUVENILES.

MSG 82-00020905 PRTY 1 04/14/82 11 13:17 ORIG: LF00 IN= 0004 OUT= 0049
FROM: DEBBIE/FBX TO: JUNO INFO
TARGET: LJH2 SUBJ: FOMS

PAGE 0007

TO: SEN. FISCHER

FR: TIM BUTLER, REGIONAL CENTER FOR ALCOHOL AND OTHER ADDICTIONS
333 DUNBAR APT. A, FAIRBANKS, AK 99701 H. 456-2088 W. 452-6411

RE: SB 685

MS. PLEASE NOTE MY OPPOSITION TO PASSAGE OF THIS BILL.

FR: FLOY ANN MAC PHEE, SR BOX 40591, FAIRBANKS, AK 99701 H. 452-3968 W. 452-18

MS. I OPPOSE SB 685

-----EOM-----

MSG 82-00020905 PRTY 1 04/14/82 11:13:17 ORIG: LF00 IN= 0004 OUT= 0048
FROM: DEBBIE/FBX TO: JUNO INFO
TARGET: LJH2 SUBJ: FOMS
PAGE 0006

TO: SEN. FISCHER, COLLETTA, BRADLEY, ELIASON, STIMSON

FR: JERRY W. CALDWELL, 4371-R 9TH STREET, FT. WAINWRIGHT, AK 99703
356-1061 W. 353-1212

RE: SB 685

MS: I WISH TO OPPOSE THE PASSAGE OF SB 685 BECAUSE IT WOULD TAKE AWAY THE
LEEWAY OF AN INFORMED JUDGE TO DECIDE WHETHER A PARTICULAR JUVENILE SHOULD BE
REMANDED TO ADULT COURT. THE LAW AS IT STANDS SEEMS TO ALREADY ALLOW FOR
SELECTIONS WAITING FOR JUVENILE PROSECUTION.

-----EOM

MSG 82-00015016 PRTY 1 03/18/82 14:00:34 ORIG: LA00 IN= 0007 CUT= 0093
FROM: EFFIE TO: JNU INFO
TARGET: LJM2 SUBJ: P.O.M. PAGE 0002

TO: SENATORS BENNETT, BRADLEY, COLLETTA, ELIASON, FISCHER
BARR, RAY, RODEY, STIMSON

FR: PAMELA MONTGOMERY, SRA BOX 37, ANCHORAGE 99507 344-1735

DO NOT SUPPORT ~~SB 495~~ THE IMPACT OF PROSECUTING ALL OLDER TEENAGERS
IN THE ADULT JUDICIAL SYSTEM HAS NOT BEEN ADEQUATELY EXPLORED.

MSG 02-00015053 PRTY 1 03/18/82 15:13:37 ORIG: LA00 IN= 0011 OUT= 0110
FROM: CAROL, ANCH. TO: JUNEAU INFO
TARGET: LHM2 SUBJ: POM
PAGE 0007

TO: SEN. VIC FISCHER

FROM: MICHAEL DONAHUE
838 W. 23RD AVENUE
ANCHORAGE 99503 (H) 276-2259 (W) 277-0533

RE: SB 485

PLEASE, WE DO NOT WANT ACROSS THE BOARD TREATMENT OF JUVENILES AS
ADULTS UNDER SB 485. THE CURRENT WAIVER SYSTEM IS A GOOD SYSTEM -
18 YEAR OLDS SHOULD BE INDIVIDUALLY SCREENED FOR AMENABILITY FOR
TREATMENT. NOT ACCEPTABLE IS TREATMENT OF ALL AS ADULTS.

MSG 52-00015053 PRTY 1 03/18/82 15:13:37 ORIG: LA00 IN= 0011 OUT= 0110
FROM: CAROL, ANCH. TO: JUNEAU INFO
TARGET: LHM2 SUBJ: POM PAGE 0002

TO: SENATORS FISCHER AND RODEY

FROM: CAROL HOGGINS WOLFE
PO BOX 1535
PALMER 99645 (H) 688-3882 (W) 279-0551

RE: SB 485

I DO NOT SUPPORT SB 485. PLEASE UTILIZE CURRENT WAIVER SYSTEM.

POSITION PAPER
SPONSOR SUBSTITUTE FOR SENATE BILL NO. 685

"An Act relating to unlawful conduct of minors."

Sponsor Substitute for Senate Bill No. 685 would add additional provisions to AS 12.55, AS 47.10, and AS 34.50. The amendments can be organized into the following topic areas. Section 3 of the act amends AS 47.10 to require the court to order a children's proceeding closed and jurisdiction over a minor waived if the court finds that there is probable cause for believing that the minor is 16 years of age or older and delinquent because he committed an unclassified or Class A felony. Section 4 further amends AS 47.10 to allow a minor, if a case is closed, to petition the court within 10 days to reopen the case and to require the court to grant the petition if it finds by a preponderance of the evidence that the interests of justice would be best served if the minor is not prosecuted as an adult. Section 1 of Sponsor Substitute for Senate Bill No. 685 amends AS 12.55 to require the court to order a minor defendant waiver under AS 47.10.060 to be confined in an institution designated by the Department of Health and Social Services for offenders under age 18 years of age and to be transferred to an adult correctional facility when the defendant reaches 19 years of age if more than one year remains of the offender's term of imprisonment. Sections 2, 5, 6, and 7 of Sponsor Substitute for Senate Bill No. 685 would require that the court disclose to the victim of a minor the manner in which the court informally or formally disposed of a matter concerning the minor and the results of any hearing held to determine the need to detain the minor. In addition, the parents, guardians, and other immediate members of the victim's family would be entitled to receive the same information from the court. Finally, Section 8 of Senate Bill No. 685 would amend AS 34.50 by raising from \$2,000 to \$5,000 the amount of damages which may be recovered in a civil action from the parents or legal guardian of a minor who destroys real or personal property. In addition, Section 8 of the Bill provides for civil action to be brought against an emancipated minor to recover damages caused by the minor and relieving the parents or legal guardian of the minor from legal responsibility for those damages.

The affect of Section 3 [AS 47.10.060(a)] contained in Sponsor Substitute for Senate Bill No. 685 would be an increase in the number of juveniles subject to prosecution under the adult criminal statutes and an increased liability of juveniles so convicted to sanctions which are more severe, both in nature and duration, than those to which they would have been liable under the juvenile code. Thus, the focus in dealing with older juveniles accused of serious violent crimes would be primarily upon increasing the accountability of the offender for his actions. The Department supports this change in focus, as under present law, the accountability of older, violent juvenile offenders is insufficient and the ability of the Department to provide rehabilitation of an adequate duration is too severely restricted. In addition, the Department supports Section 4 [AS 47 10.060 (f)] which allows some flexibility for unusual cases by providing the youthful offender a period of 10 days to request a "transfer back" of the case from the adult court to the juvenile court.

Section 1 (AS 12.55.015) of Sponsor Substitute for Senate Bill No. 685 which requires the court to order waived juveniles to serve their terms of imprisonment in juvenile correctional facilities until the offender reaches the age of 19 is generally supported by the Department. However, the Department would recommend that (d)(2), Line 16 of this section be amended to change the age from 19 to 18.

This change would make the age in this section consistent with the age of majority. An analysis of the most recent available arrest data indicates that an estimated 28 juvenile offenders would have been subjected to prosecution as adults during CY 1981 as a result of the waiver of jurisdiction provisions in Sponsor Substitute for Senate Bill No. 685. If Section 1, Line 16, is not amended to reduce the age from 19 to 18, this Bill will result in a substantial fiscal impact to the juvenile corrections system. It is estimated by analyzing adult sentencing data, as well as data on length of time served, that the Division will need to add 10 new beds to the McLaughlin Youth Center's Closed Treatment Unit to house 18 and 19 year old sentenced offenders.

Sections 2, 5, 6, and 7 of Sponsor Substitute for Senate Bill No. 685 would amend AS 47.10 to mandate the disclosure of information about informal or formal children's proceedings concerning minors to the victims of offenses committed by those minors. This would alter present law which prohibits any such disclosure without specific order of the court. This provision would infuse clarity and uniformity into the matter of disclosure of information to victims which is presently treated variously by courts in the four judicial districts depending upon the differing circumstances of each specific case. The Department is supportive of the concept of informing the victim of an offense of the outcome, either formal or informal, of court proceedings concerning delinquent minors. The Department believes that the provisions contained in Sponsor Substitute for Senate Bill No. 685 would accomplish this purpose satisfactorily.

Sections 8 and 9 of Sponsor Substitute for Senate Bill No. 685 which increases the civil monetary liability of parents for property damage caused by their minor children and which render an emancipated minor civilly liable for his actions are supported by the Department as a means of insuring that innocent victims do not suffer a loss when payment of restitution by a minor is not feasible or forthcoming.

In summary, the Department supports Sections 2 through 9 of Sponsor Substitute for Senate Bill No. 685. In addition, the Department supports Section 1 of Sponsor Substitute for Senate Bill No. 685, but recommends amending (d)(2), Line 16, by changing the age from 19 to 18.

RECOMMENDED BY: John R. Pugh
John R. Pugh, Director
Division of Family and
Youth Services

DATE: 4/15/82

APPROVED BY: Helen D. Beirne
Helen D. Beirne
Commissioner

DATE: 4-20-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Sponsor Substitute for Senate Bill No. 685
 Title "An Act relating to unlawful conduct of minors."
 Requested by Senate Judiciary Date April 12, 1982

II. FISCAL DETAIL

Agency Affected Health and Social Services
 Program Category Affected Offender Confinement, Reformation, & Supervision
 BRU, Program, Or Subprogram(s) Affected Adult Confinement; Youth Services
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES			352.2	666.4	713.0	762.9
200 TRAVEL			4.0	10.4	11.3	12.4
300 CONTRACTUAL			45.9	121.1	132.0	143.9
400 COMMODITIES			30.1	97.0	105.7	115.2
500 EQUIPMENT			3.2	5.6	-	-
600 LAND & STRUCTURES		2,818.0				
700 GRANTS, CLAIMS, ETC.			38.6	68.5	74.7	81.4
TOTAL	- 0 -	2,818.0	474.6	969.0	1,036.7	1,115.8

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	- 0 -	2,818.0	474.0	969.0	1,036.7	1,115.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	- 0 -	- 0 -	8	15	15	15
PART TIME						
TEMPORARY						

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

A. Enactment of Sponsor Substitute for Senate Bill No. 685 will have a fiscal impact on both Youth Services within the Division of Family and Youth Services and Adult Confinement within the Division of Adult Corrections. Since the new language would treat individuals sixteen years and older as adults for unclassified and class A felonies, the time served by convicted sixteen and seventeen year-olds would increase substantially.

It is the estimate of the Department of Health and Social Services that ultimately an additional 42 beds will be needed to care for this group of individuals in a secure setting. Detail of this estimate follows.

Roger C. Lange

IV. DATE April 15, 1982 PREPARED BY Roger C. Lange
 AGENCY Division of Adult Corrections
 Original: Legislative Finance PHONE 465-3376
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

JCC

B. Youth Services Impact

Enactment of this bill would require the construction of a 10-bed brick and steel addition to the McLaughlin Youth Center. Construction should be completed for opening in FY 1984. The unit would be separated from other units of the detention center so that the older inmates could be separate from the younger, less sophisticated offenders.

Eight additional staff would be required to supervise this unit:
2 Youth Counselors III and 6 Youth Counselors II.

Costs

- 1) Capital Expenditure - FY 1983
10 beds @ approximately \$130,000 per bed.
10 x \$130,000 = \$1,300,000
- 2) Operating Expenditures - Begin FY 1984

Personal Services	\$ 352,200
Travel	4,000
Contractual Services	45,900
Commodities	30,100
Equipment	3,200
Benefits to Individuals	<u>38,600</u>
Total	\$ 474,000

C. Adult Confinement

It is assumed that no appreciable bed impact will be experienced by the Division of Adult Corrections until FY 1985. This is based on the assumption that the average age of offenders affected by this legislation will be 17 years, and will serve one year in a juvenile facility prior to transfer to an adult facility. This fiscal note identifies a need for 22 additional beds, although the legislation will result in 10 additional beds being needed at the rate of 1 bed per year after FY 1987. This is a result of the average period of confinement of 15 years for persons convicted of unclassified felonies.

Based upon arrest data indicating 28 persons 16 and 17 years of age being arrested annually for crimes in the unclassified and Class A felony categories, and using conviction rates and average sentence lengths for adult offenders, the following is predicted:

1) Unclassified Felony

One conviction per year with an average sentence of 15 years to serve (20 years less good time) will require 13 additional beds. It is noted that only 3 of these beds will be required during the period covered by this fiscal note and that is the number requested. The additional 10 beds will have to be considered for capital projects planned for completion after FY 1987, if this proposed legislation is enacted.

2) Class A Felony with Gun

Five convictions per year with one waived to juvenile status and one sentenced so as to serve all time in a juvenile facility. Therefore, it is estimated there will be three individuals who will serve a period of 2.5 years each in an adult facility.

$$3 \times 2.5 = 7.5 \text{ person years or beds}$$

3) Class A Felony without Gun

Eight convictions per year with one waived to juvenile status and two sentenced so as to serve all time in a juvenile facility. Therefore, 5 individuals will serve an average of 2.4 years in an adult facility.

$$5 \times 2.4 = 12 \text{ person years or beds}$$

4) Total beds required through FY 1987 is 22.

5) Cost Estimates

a) Capital expenditures:

22 beds at \$69,000 per bed
 $22 \times \$69,000 = \$1,518,000$

b) Operating expenditures:

It is estimated that 7 positions will be required to provide security and support for these 22 beds: 1 Correctional Officer III, 5 Correctional Officers II, and 1 Institutional Counselor. Costs for these positions will not occur until FY 1985, the anticipated opening date for the new beds.

FY 1985 Costs

Personal Services	\$ 289,500
Travel	6,000
Contractual Services	71,000
Commodities	64,200
Equipment	5,600
Inmate Gratuities	<u>26,400</u>
Total	\$ 462,700

Inflation of 7% for Personal Services and 9% for all other expenditure object groups was assumed when calculating subsequent fiscal years.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL
JUNEAU, ALASKA 99811

April 19, 1982

Nancy Grozek, Aide
Senator Fischer's Office
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

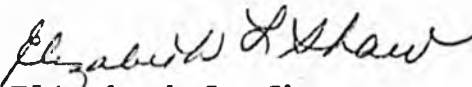
Dear Ms. Grozek:

I discussed with the Attorney General my testifying for the Department of Law on SB 685. We both agreed that my testimony would be redundant as Barry Stern can speak for the Department of Law while John Pugh would be able to present statistical information.

I'm sorry that I cannot be of more direct assistance at this time.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Elizabeth L. Shaw
Assistant Attorney General

WLC:ELS:vrb

Page 3, Line 15

Insert after "felony" and before ";" the following:

"however, the court may retain jurisdiction if the court finds by a preponderance of the evidence that the interests of justice would be best served if the minor is not prosecuted as an adult."

Lear
4/22/82

Original sponsors: Rodey, Bradley,
Dankworth, et al

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 685 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to unlawful conduct of minors."

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

8 Section 1. AS 12.55.015 is amended by adding a new subsection to read:

9 (d) If the court sentences a defendant to a term of imprisonment
10 and the defendant is a minor over whom children's court jurisdiction is
11 waived under AS 47.10.060, the court shall

12 (1) order that the defendant be confined in an institution
13 designated by the Department of Health and Social Services for offenders
14 under 18 years of age; and

15 (2) order that the defendant be transferred to an adult
16 correctional facility when the defendant reaches 19 years of age if more
17 than one year then remains of the defendant's term of imprisonment.

*Minor Sentenced as an Adult
Can be placed in Juvenile Institution*

18 * Sec. 2. AS 34.50.020(a) is amended to read:

19 (a) Except as provided in (e) of this section, a [A] person, muni-
20 cipal corporation, association, village, school district or religious or
21 charitable organization, incorporated or unincorporated, may recover
22 damages in a civil action in an amount not to exceed \$5,000 [\$2,000] and
23 court costs, from either parent or both parents or the legal guardian or
24 person having the legal custody of an unemancipated minor under the age
25 of 18 years, who maliciously or wilfully destroys real or personal
26 property belonging to the person, municipal corporation, association,
27 village, school district or religious or charitable organization.

18
\$5,000

28 * Sec. 3. AS 34.50.020 is amended by adding new subsections to read:

29 (c) For the purposes of this section a minor is considered emanci-

1 pated and a parent or legal guardian or person having legal custody is
2 not liable for property damage caused by the minor if the court deter-
3 mines that

4 (1) the disabilities of minority have been removed under
5 AS 09.55.590;

6 (2) the minor is a resident of the state, is at least 16 years
7 of age, is living separate and apart from the minor's parents or legal
8 guardian or person having legal custody, and is capable of self-support
9 and of managing personal financial affairs; or

10 (3) the minor is living separate and apart from the minor's
11 parents or legal guardian or person having legal custody and engages in
12 conduct that results in a judgment under AS 47.10.080(a) that the minor
13 is a delinquent minor and that also is the basis for a civil action for
14 damages to property under this section.

15 (d) If the court determines that a minor is emancipated under (c)
16 of this section, the minor may be sued in a civil action for injuries
17 caused by the minor as if the minor were an adult.

18 (e) The provisions of (a) of this section do not apply to destruc-
19 tion of property by an unemancipated minor under the age of 18 years
20 who maliciously or wilfully destroys property at the time the minor is a
21 ward of the state under AS 47.10.080(f).

22 * Sec. 4. AS 47.10.020(a) is amended to read:

23 (a) Whenever a person informs the court of the facts which bring a
24 minor within this chapter, the court shall appoint a competent person or
25 agency to make a preliminary inquiry and report for the information of
26 the court to determine whether the interests of the public or of the
27 minor require that further action be taken. Upon the receipt of the
28 report, the court may informally adjust or dispose of the matter without
29 a hearing, or it may authorize the person having knowledge of the facts

1 of the case to file with the court a petition setting out the facts.
2 Where the court informally adjusts or disposes of the matter, the minor
3 may not be detained or taken into the custody of the court, and the
4 matter shall be closed by the court upon adjustment or disposition.
5 Upon request of the victim or the victim's parent or guardian, the court
6 shall disclose to the victim of the minor or to the victim's parent or
7 guardian the manner in which it informally adjusted or disposed of the
8 matter. The court may not disclose the identity of the minor.

9 * Sec. 5. AS 47.10.060(a) is repealed and reenacted to read:

10 (a) The court shall order a case closed and, subject to the pro-
11 visions of AS 12.55.015(d), the minor may be prosecuted as if the minor
12 were an adult if the court finds at a hearing on a petition

13 (1) that the minor was 16 years of age or older at the time
14 of the offense and that there is probable cause to believe that the
15 minor has committed an unclassified felony or a class A felony; or

16 (2) that the minor is not amenable to treatment under this
17 chapter and there is probable cause to believe that the minor is delin-
18 quent.

19 * Sec. 6. AS 47.10.060 is amended by adding a new subsection to read:

20 (f) If a case is closed under (a)(1) of this section, the minor
21 may petition the court within 10 days to reopen the case. The case
22 shall be reopened if the court finds by a preponderance of the evidence
23 that the interests of justice would be best served if the minor is not
24 prosecuted as an adult. In making this finding, the court shall con-
25 sider

26 (1) the criminal and personal history of the minor and the
27 likelihood of rehabilitation;

28 (2) the seriousness of the minor's present offense in rela-
9 tion to other offenses committed by the minor;

1 (3) the need to confine the minor to prevent further harm to
2 the public;

3 (4) the circumstances of the offense and the extent to which
4 the offense harmed a victim or endangered the public safety or order;

5 (5) the effect of prosecuting the minor as an adult in deter-
6 ring the minor or other minors from future criminal conduct;

7 (6) the best interest of the minor.

8 * Sec. 7. AS 47.10.080(a) is amended to read:

9 (a) The court, at the conclusion of the hearing, or thereafter as
10 the circumstances of the case may require, shall find and enter a judg-
11 ment that the minor is or is not a delinquent or a child in need of aid.
12 The court shall disclose the results of the hearing in accordance with
13 AS 47.10.020(a).

14 * Sec. 8. AS 47.10.090 is amended by adding a new subsection to read:

15 (d) The provisions of this section prohibiting disclosure of
16 information relating to a minor do not apply to a disclosure to a victim
17 or the victim's parent or guardian under AS 47.10.020(a), 47.10.080(a),
18 and 47.10.140(d).

19 * Sec. 9. AS 47.10.140(d) is amended to read:

20 (d) If the court finds that probable cause exists, it shall deter-
21 mine whether the minor should be detained pending the hearing on the
22 petition or released. It may either order the minor held in detention
23 or order the minor [HIM] to be released to the custody of a suitable
24 person pending the hearing on the petition. If the court finds no prob-
25 able cause, it shall order the minor released and close the case. The
26 court shall disclose the results of the hearing in accordance with
27 AS 47.10.020(a).

↳ Prosecution of Minors -
Heinous -

↳ Disposition of Juveniles -

↳ Inflationary Adjustment -

B. Adult Confinement

It is assumed that no appreciable bed impact will be experienced by the Division of Adult Corrections until FY 1984. This is based on the assumption that the average age of offenders affected by this legislation will be 17 years, and will serve one year in a juvenile facility prior to transfer to an adult facility. This fiscal note identifies a need for 32 additional beds, although the legislation will result in 10 additional beds being needed at the rate of 1 bed per year after FY 1986. This is a result of the average period of confinement of 15 years for persons convicted of unclassified felonies.

Based upon arrest data indicating 28 persons 16 and 17 years of age being arrested annually for crimes in the unclassified and Class A felony categories, and using conviction rates and average sentence lengths for adult offenders, the following is predicted:

1.) Unclassified Felony

One conviction per year with an average sentence of 15 years to serve (20 years less good time) will require 14 additional beds. It is noted that only 4 of these beds will be required during the period covered by this fiscal note and that is the number requested. The additional 10 beds will have to be considered for capital projects planned for completion after FY 1986, if this proposed legislation is enacted.

2.) Class A Felony with Gun

Five convictions per year with one waived to juvenile status and one sentenced so as to serve all time in a juvenile facility. Therefore, it is estimated there will be three individuals who will serve a period of 3.5 years each in an adult facility.

$$3 \times 3.5 = 10.5 \text{ person years or beds}$$

3.) Class A Felony without Gun

Eight convictions per year with one waived to juvenile status and two sentenced so as to serve all time in a juvenile facility. Therefore, it is estimated there will be five individuals who will serve a period of 3.4 years each in an adult facility.

$$5 \times 3.4 = 17 \text{ person years or beds}$$

4.) Total beds required through FY 1986 is 32.

5.) Cost Estimates

a) Capital expenditures:

32 beds at \$69,000 per bed
 $32 \times \$69,000 = \$2,208,000$

b) Operating expenditures:

It is estimated that 7 positions will be required to provide security and support for these 32 beds: 1 Correctional Officer III, 5 Correctional Officer II, and 1 Institutional Counselor. Costs for these positions will not occur until FY 1984, the anticipated opening date for the new beds.

S

B

689

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 2, 1982

The Honorable Vic Fisher
Chairman
Senate State Affairs Committee
Room 423 - Capitol Building
Juneau, Alaska

Dear Senator Fischer:

Re: Senate Bill No. 689

Senate Bill No. 689, an Act relating to appropriations and general obligation bonds for capital projects, was introduced in the Senate on January 27, 1982 and was referred to the Senate State Affairs and Finance Committees.

For the consideration of the Senate State Affairs Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Anselm Staack, Treasury Comptroller, Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

Enclosure

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

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 689 (1/27/82)
 Title Operating Cost Fund for Capital Projects
 Requested by Senate State Affairs Committee Date 3/1/82

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, Or Subprogram(s) Affected Treasury Management
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		46.3	92.6	101.9	112.1	123.3
200 TRAVEL		3.0	6.0	6.6	7.3	8.0
300 CONTRACTUAL		65.5	130.0	143.0	157.3	173.0
400 COMMODITIES		1.5	3.0	3.3	3.6	4.0
500 EQUIPMENT		6.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		122.3	231.6	254.8	280.3	308.3

FUNDING (Thousands of Dollars)

GENERAL FUND		122.3	231.6	254.8	280.3	308.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

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

Establishes an Operating Cost Fund for capital projects in Department of Revenue. Fund consists of monies appropriated to it and interest earned on fund balance.

Administrative costs to invest and manage fund balances and account for disbursement to appropriate department. Personal Services for Investment Officer II (R22,X) to invest and manage assets; Accounting Tech. II (R14,G) for associated accounting and reporting. Contractual Services (FY 84 base): Comm. \$5.0; Print & Adv. \$5.0; Safekeeping and related accounting/reporting \$100.0; Audit \$15.0; Misc. \$5.0. Equipment is for new positions. Effective 1/1/83.

valid for \$50m to #1 B

Anselm C. Staack

IV. DATE March 1, 1982

PREPARED BY Anselm C. Staack, Treasury Comptroller
 AGENCY Department of Revenue Treasury Division
 PHONE 465-2350

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

33-001 (Rev. 12/81)

Mpt. invested fund portion

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
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ORIGINAL.

BILL ANALYSIS - SB 681 (1/27/82)

1. Establishes an Operating Cost Fund (OCF) for capital projects in Department of Revenue.
2. Fund consists of money appropriated to it and interest earned on fund balance.
3. Account to be established in fund for each capital project for which an appropriation is made.
4. Revenue to transfer funds to department which operates capital project, each year, to pay operating costs.
5. Operating costs of projects, for which general obligation bonds are to be sold, are to be estimated to provide a schedule of expected cost of operating the proposed capital project. Net present value (NPV) of the operating cost of a project to be determined. NPV of operating cost is to be placed, as information for the voters to review, on the ballot.
6. Provisions do not apply to project with an NPV of operating costs of less than \$100,000.
7. Takes effect January 1, 1983.

THE PRECEDING DOCUMENT(S) MAY NOT FILM
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ORIGINAL.

SB 686 (cont'd)

Outlines requirements for proper entries in property book.

Chapter 39 relates to the disposition of property used as evidence in court, and the return of that property after final determination of the case. In the case of property used in the commission of a crime for which the accused is convicted or that is considered unlawful property the court shall order the destruction, sale, or other appropriate disposition. Provides "Nothing in this chapter affects the rights of a person aggrieved by an unlawful search and seizure to seek redress under the provisions of Rule 37, Rules of Criminal Procedure.

Repeals AS 12.35.080 - 12.35.110 (current laws relating to disposal of property).

Does not provide for an effective date.

Introduced January 27 and referred to Judiciary.

Search
Warrants
(issuance by
telephone
testimony)

SENATE BILL NO. 687, by Senators Rodey, Bradley, Dankworth, Kelly, Kerttula and Ray. Permits issuance of a search warrant upon sworn oral testimony conducted by telephone or other appropriate means if if judicial officer finds there is probable cause to believe personal testimony would result in delay and delay might result in loss or destruction of evidence subject to seizure. Person testifying to be placed under oath, and conversation to be recorded. Testimony is to be transcribed and certified as to accuracy, then filed. The bill states: "Absent a finding of bad faith, evidence obtained under a warrant issued under this section is not subject to a motion to suppress on the ground that the circumstances did not support its issuance under (a) of this section." (subsection (a) states warrant may be issued upon sworn oral testimony and outlines reasons for believing there is probable cause to issue the warrant). Provides language added has the effect of changing Rule 37, Rules of Criminal Procedure, by allowing search warrants to be issued upon sworn oral testimony communicated by telephone or other appropriate means. Does not provide for an effective date.

Introduced January 27 and referred to Judiciary.

Appropriation
(special)
(computerized
fingerprints)

SENATE BILL NO. 688, by Senators Rodey, Bradley, Dankworth, Kelly and Ray. Makes a special appropriation in the amount of \$4,282,900 to the Department of Public Safety for a computerized fingerprint system. Provides appropriation is for a capital project and does not lapse. Provides Act takes effect immediately.

Introduced January 27 and referred to Judiciary, then to Finance.

Capital
Projects
(operating
cost fund)

SENATE BILL NO. 689, by Senators Sturgulewski, Ferguson, Fischer and and Stimson. Sets up an operating cost fund in the Department of Revenue for capital projects financed by the Legislature. Each project financed is to have a separate account consisting of the unexpended amount of the appropriation, and a proportional amount of income earned through investment of the capital project fund. The Commissioner of Revenue is responsible for withdrawing amounts

INTRODUCTION OF BILLS (Senate)

SB 689 (cont'd)

annually for each project and shall pay that amount to Departments responsible for the project.

Provides any capital project funded by the state that is not financed by bond sales shall include an appropriation for operating costs for up to 30 years. Commissioner of Department responsible for the project is to set up a schedule for operating costs. Defines "cost of operating" and "operating cost" as in section below.

Section relating to bondable projects provides the Commissioner of responsible department shall prepare a schedule of the expected cost of operating the proposed project for its useful life. The schedule is to serve as the basis for calculating the net present value of the operating cost of the project. Defines "cost of operating" and "operating cost" to mean the normal, anticipated costs of maintenance and operation of a capital project, including expenses for routine maintenance, minor repairs, utilities, local charges, fees and payments in place of taxes; and exclude costs offset by fees imposed on users, and for contributions from federal, municipal, and private sources. Provides election pamphlet contain a statement of the net present value of the operating cost for bondable projects.

Provides Act takes effect January 1, 1983.

Introduced January 27 and referred to State Affairs, then to Finance.

Tax Credits
(property
taxes &
rentals)

SENATE BILL NO. 690, by Senator Kelly. Provides for a tax credit for property taxes and for rents of up to \$300, depending upon the amounts paid. Outlines formula for determining tax credit. Provides credit for individual who paid only part of the property taxes or rent during the year (up to \$150). States only one dwelling at a time may be claimed as the principal place of abode, and provides for separate calculations if taxes or rents were paid on more than one abode. Outlines procedure for individual or joint filing. Provides Act retroactive to January 1, 1982, and authorizes a credit for taxes or rent paid after December 31, 1981. Act terminates January 1, 1985. Provides Act takes effect immediately.

Introduced January 27 and referred to Community & Regional Affairs, then to Finance.

Appropriation
(special)
(Fairbanks
hospital)

SENATE BILL NO. 691, by Senators Fahrenkamp, Bennett and Parr. Makes a special appropriation in the amount of \$20,000,000 for payment as a grant to the Fairbanks North Star Borough for expansion and improvement of Fairbanks Memorial Hospital. Provides Act takes effect immediately. (Identical to HB 700, this report.)

Introduced January 28 and referred to Health, Education & Social Services, then to Finance.

Coroners
(duties/
inquests)

SENATE BILL NO. 692, by the Judiciary Committee. Makes changes in the duties of the coroner and those duties of the district judges and magistrates as coroner. Under this bill:

3-5-82

RESOLUTION

Life time

Loans.

? 2 year ^{cycle} process for capital budgeting

Life cycle costing

pilot project - of rural schools

- gradual phasing in

- consider infl. impacts of capit. proj's

- new projects cost more, + fut. M&D

- effect bus costs

→ incl bonded projects

→ municipal grants

→ house life cycle costing in BLM

- require enough project planning to provide accurate cost est's

- rel. to spending limit

Mack Sagers

Pete McD.

State of the art - MKO acco.

- did for all school dists. in HK.

? could add program costs ?

→ think as accuracy

Capital Costs

		Source
F.Y. 1981 Capital Expenditures including general fund, special revenue fund and capital project fund	\$1,595,545,000	1983 Executive Budget Summary
F.Y. 1982 Capital Expenditures inclusive	unknown	
F.Y. 1982 Capital Expenditures general fund only	\$1,380,000,000	Budget & Management estimate
F.Y. 1981 Capital Appropriations including General Appropriations Act, excluding new legislation, loan funds, special appropriations and bond measures	\$779,655,100	1981 Free Conference Committee Report
F.Y. 1982 Capital Appropriations including General Appropriations Act, excluding new legislation, loan funds, special appropriations and bond measures.	\$782,293,100	1982 Free Conference Committee Report
F.Y. 1982 DOTPF Capital Appropriations Data Base. Including General Appropriations, excluding new legislation (\$46,849,400), loan funds (\$25,800,000), special appropriations (\$862,447,400), bond measures (\$12,000,000) and road rehabilitation costs.*	\$727,566,500	F.Y. 82 CIP Lifetime Curves ship Costs

The DOTPF data base is probably one half of total FY82 Capital Appropriations have not been reported with capital and operations categories.

* These appropriations have not been reported with capital and operations categories.

Mark Kisse

VALUE OF EXPECTED RETURNS FROM EXISTING HATCHERIES
OPERATING AT FULL CAPACITY 1/

Southeast	-	\$26,911,222.66	
Prince Wm. Sound	-	7,776,976.34	
Cook Inlet	-	7,739,775.80	
Kodiak and Ak. Peninsula	-	3,749,469.40	
Bristol Bay and AYK	-	641,691.80	
TOTAL	-	\$46,819,136.00	Commercial Fisheries

1/ Bases upon 1981 ex-vessel prices per pound.

VALUE OF EXPECTED RETURNS FOR 1982 1/

Southeast	-	\$ 779,670.35	
Prince Wm. Sound	-	1,047,737.00	
Cook Inlet	-	986,654.65	
Kodiak and Ak. Peninsula	-	1,228,905.00	
Bristol Bay and AYK	-	63,820.00	
TOTAL	-	\$ 4,126,787.00	

\$438 million

NET Present Value

all hatcheries over 20 years life

NET state income in 1982 dollars

B:C ratio 2.8:1

VALUE OF EXPECTED RETURNS FROM EXISTING HATCHERIES
OPERATING AT FULL CAPACITY

Southeast	-	\$ 23,323,000	
Prince Wm. Sound	-	9,600,000	
Cook Inlet	-	57,167,000	
Kodiak and Ak. Peninsula	-	3,488,000	
Bristol Bay and AYK	-	19,226,000	
TOTAL	-	\$112,804,000	<i>commercial plus sport value</i>

VALUE OF EXPECTED RETURNS FOR 1982 1/

Southeast	-	\$ 779,670.35	
Prince Wm. Sound	-	1,047,737.00	
Cook Inlet	-	986,654.65	
Kodiak and Ak. Peninsula	-	1,228,905.00	
Bristol Bay and AYK	-	63,820.00	
TOTAL	-	\$ 4,126,787.00	

1/ Sport fish values not included.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT



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,
Anchorage, Alaska 99501 phone: 278-3654

Official Business

MEMORANDUM

TO: All senators

FROM: Sen. Vic Fischer 

DATE: November 24, 1981

SUBJECT: Funding, maintenance and operation for future capital projects

I have become increasingly concerned about the ease with which we fund capital projects without much concern, if any, for meeting the cost of maintaining and operating each project. The problem exists at both the state and local levels.

I would appreciate your considering the attached analysis of and proposal for controlling capital project maintenance and operation costs.

The state has embarked on an ever increasing volume of public works and other construction programs, and there is a growing concern about the impact that the cost of maintaining and operating capital projects will have on future state operating budgets. The prospective constitutional limit on operating budgets may cause a real squeeze on ongoing programs when new capital projects come on line.

Maintenance and operations expenses can, over the life of a capital project, exceed original construction costs by as much as 400%. Although authorizing a capital project guarantees that the state will incur future maintenance and operating expenditures, the legislature does not provide for the financing of such future expenses. It is quite possible that in future years the state might not be able to afford to meet costs that are being committed at this time.

The burden of future maintenance and operation expenses

Memo
All Senators
Nov. 24, 1981

can be controlled by: (1) not constructing capital projects with excessive maintenance and operation costs and (2) providing current appropriations to meet future maintenance and operation expenses. The second course is discussed in the attached paper. This paper, prepared at my request by Ira Winograd and Anne DeVries of the House Research Agency, examines a proposal for creating a Maintenance and Operation Fund that would require state government to take realistic fiscal responsibility for the full costs of capital projects, including both the construction and the maintenance and operation expenses.

I believe we have to establish such an approach or some other method if the projects we build today are to serve us effectively in the future. Otherwise we may have jails that we can't afford to operate, transportation facilities that can't be maintained, or other projects that don't serve the function for which they were developed. And although this paper deals strictly with state level projects, I believe we must also make sure that attention is given to a similar situation existing at the municipal level, frequently encouraged by state grants to localities.

I would greatly appreciate your comments on the alternatives in this report and any suggestions about other options that ought to be considered to control the capital project maintenance and operations component of operating budgets.

Thanks for your consideration, and best regards.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

August 24, 1981

TO: Senator Vic Fischer

FROM: Ira Winograd and Anne DeVries
Research Staff

RE: Feasibility of a Maintenance and Operation Fund

In response to your request, this memorandum discusses issues surrounding the creation of a fund to finance future maintenance and operation (M&O) expenditures on State capital projects. We have circulated a review draft of this memorandum to staff of the executive and legislative branch agencies that are involved in the capital budgeting process. Many of their comments are reflected in this final memorandum; in addition, we have attached a letter from Kit Duke, Regional Director for Planning and Programming in DOTPF's Central Region with her comments (Appendix A).

Our discussion is divided into five sections covering:

- the problem of financing future maintenance and operations expenditures for those capital projects currently being planned or built;
- the mechanics of how an M&O fund might be structured and funded;
- the problems associated with financing future M&O expenditures through a special fund; and,
- a summary of findings and a discussion of other M&O research.

Definition of M&O Costs

Maintenance and operating costs are not well-defined in the State's capital budgeting process. For the purposes of this memorandum, M&O costs will be those associated with: 1) the day-to-day operation of the physical plant of a capital project, such as lights, heat, plumbing, cleaning and garbage pick-up; and, 2) those associated with routine maintenance, such as replacement of broken windows, roof repairs, road and dock repairs. Program costs associated with the operation of a facility, such as additional State troopers to service highways, nurses and therapists in Pioneers' Homes, teachers and administrators in school buildings, and biologists in fish hatcheries, are not included within the definition of M&O costs used in this paper.

THE PROBLEM OF MAINTENANCE AND OPERATING COSTS

As a result of the rapid growth in oil lease and tax revenues, the State has embarked on a substantial capital construction program. There is a growing concern about the impact that the costs of maintaining and operating these capital projects will have on the State's operating budget.

This concern has been prompted by three inter-related factors:

- 1) the anticipated decline in State revenues due to production declines on the Prudhoe Bay oil field later in this decade;
- 2) the proposed constitutional spending limit, which would limit growth in the State's operating expenditures to the cumulative growth in inflation and population; and,
- 3) uncertainty about the size of future M&O expenditures.

Given the projected decline in real revenues from oil and gas taxes as production from Prudhoe Bay falls later in the decade, the State is expected to incur large budget deficits if the current rate of spending continues. Such deficits would require decisionmakers to reduce agency budgets. It is not clear how expenditures for maintaining and operating the State's capital stock will fare in a highly competitive contest for State funds.

The proposed constitutional amendment to limit State spending also raises concern regarding the funding of M&O costs. Under the terms of the proposed amendment, the operating budget may only grow as fast as the combined growth of population and inflation. Given that the State will soon be incurring new M&O expenses for the capital projects nearing completion or in the planning stages, it would appear some other elements of the budget would have to grow at a slower rate in order to absorb these costs within the proposed budget constraints.

In addition, the proposed constitutional amendment may not place an effective limit on capital spending. Not only does it require that at least one-third of the budget be used for capital projects, it permits unlimited use of bond issues to finance these projects. Passage of the amendment may create a situation where the State's capital investment increases while its ability to operate and maintain that investment is not permitted to expand accordingly.

The third factor giving rise to concern is simply that the magnitude of these future M&O costs cannot be estimated. The State's capital budgeting system does not have any reliable way of projecting M&O costs for all projects funded through State appropriations. The implications

of this lack of information are noted by the General Accounting Office, in its study of capital budgeting practices in different governmental and private organizations:

Several of the [organizations] we surveyed were not only unaware of the condition of their existing capital infrastructure, they had also failed to make the connection between adding capital assets and the corresponding costs of operations and maintenance. Failure to grasp this connection is important because the relationship between the two is not linear. Accumulated physical capital can magnify the longterm effects of operations and maintenance, particularly when more staff are needed. Also, without careful advance planning, requirements for repairs can peak, causing a heavy financial burden when many assets are acquired in a relatively short space of time.¹

Clearly, the uncertainty regarding the size of future M&O expenditures creates a serious problem for fiscal planners, particularly in light of uncertainty regarding both the amount of future State revenues and restrictions on how they may be spent.

The State has the following options for dealing with this anticipated problem of funding M&O costs:

- 1) Construction of some new capital projects might be curtailed, thereby reducing additions to future M&O obligations;
- 2) The budgets for other State programs might be decreased to insure that sufficient revenues are available for M&O expenditures;
- 3) Current revenues might be set aside in an income-producing fund which could be used solely for future M&O expenditures, thereby reducing competition for funds in the future;
- 4) Facilities might be: closed; operated at a reduced level of service; and/or allowed to deteriorate as required maintenance expenditures are deferred.

¹ U.S. General Accounting Office, Federal Capital Budgeting: A Collection of Haphazard Practices, A Report to Congress, February 26, 1981, page 47. This study evaluates the successfulness of the capital budgeting process at different levels of government and in private industry.

Given the low priority usually given to M&O expenditures in governmental organizations across the country, there is speculation that the State's approach to these future funding requirements may rely primarily on the fourth option - that of spending fewer maintenance and operating dollars than are really needed because the funds cannot be diverted from other programs. Unfortunately, many local and state governments, as well as the federal government, are treating M&O expenses in this way, as noted by the GAO study:

They [unsuccessful capital budgeting organizations] tended to add capital items inexorably with no thought as to how they would pay for operations and maintenance in the future. They are now finding it difficult to make repairs and renovations, and their bridges, roads, and other capital assets show signs of serious deterioration.²

The remainder of this paper discusses the feasibility of the third option mentioned above: that of setting aside current revenues into an income-producing fund for the purpose of funding future M&O expenditures.

THE MECHANICS OF AN M&O FUND

This section describes how an M&O fund might be structured and operated. The following section discusses whether or not such a fund would be able to achieve its objective of meeting future M&O funding needs.

Funding Options

A fund to finance future M&O costs could be structured in one of two ways:

- 1) an amount equal to the present value of estimated future M&O costs for a particular capital project(s) could be appropriated into a self-liquidating fund. Over the life of the project, principal and income from this fund would be used to pay M&O costs; a self-liquidating fund is not designed to finance the M&O expenses of capital projects having an indefinite life, such as highways.
- 2) an amount sufficient to generate annual income equal to projected M&O costs for a project(s) could be appropriated into a permanent

² GAO, page 47.

fund. Only the income off invested principal would be used to pay M&O costs. As only the earnings from this fund would be used, the initial appropriation would be much larger than that for a self-liquidating fund. For example, if the fund earns 10% on its principal and it must finance annual future M&O expenditures of \$100 million, then its principal balance would need to be \$1 billion.

Either a self-liquidating or permanent fund may be financed by a one-time appropriation or an annual appropriation; clearly, a fund receiving a one-time appropriation has a fixed amount of financial resources which limits its ability to finance increasing M&O costs.

An annual appropriation might consist of dedicated revenues or General Fund appropriations which are automatically transferred to the fund. Annual appropriations into a self-liquidating fund would ideally be calculated to cover all or part of the present value of the future M&O costs associated with that year's capital expenditures. Funds would be provided for those projects on a fixed liquidation schedule approximating the life of the project.

Legal Basis

Either legislation or a constitutional amendment could be used to create a self-liquidating fund. Although there is no guarantee that future legislation would not abolish the fund, AS 37.25.010 provides for the creation of "valid obligations", such as an endowment fund. If a fund is considered a valid obligation the unexpended balance is automatically reappropriated, as stated below:

The unexpended balance of a one year appropriation authorized in an appropriations bill lapses on June 30 of the fiscal year for which appropriated. However, a valid obligation (encumbrance) existing on June 30, is automatically reappropriated for the fiscal year beginning the succeeding July 1, if it is recorded with the Department of Administration by August 31 of the succeeding fiscal year. (AS 37.25.010)

In order to insure the continuation of a self-liquidating fund for its planned life, it might be preferable to adopt a constitutional amendment. However, constitutional amendments creating legal provisions with a fixed liquidation date are seldom adopted; in addition, the creation of several funds through amendments to the constitution is a cumbersome process.

A "permanent M&O fund" also could be created by either legislation or a constitutional amendment. However, a constitutional amendment would

be required to guarantee the continued existence of a "permanent" fund, fund, as future legislatures are not bound by prior legislation. In addition, a constitutional amendment is required to dedicate revenues: "The proceeds of any state tax or license shall not be dedicated to any special purpose except as provided in section 15 of this article..." (Art. IX Sec. 7)

Allocation

A permanent or a self-liquidating fund might finance the entire amount, or a portion of M&O expenses for single projects (e.g. Susitna), single entities (e.g. University of Alaska, Juneau), or single types of capital projects (e.g. airport runways).

In order to allocate funds, the M&O expenses of the selected projects must have their own budget classification. Legislation would be needed which required separate M&O accounts for specific capital projects or operating entities. A separate classification would allow monies to be allocated strictly for maintenance and operations. This data is needed to evaluate the accuracy of both expense projections and revenue allocations to the fund. If these estimates are inaccurate and the inaccuracy is not corrected, specified capital project(s) might not be funded at the level desired. In this event, it is likely that individual accounts would have to be revised by supplemental appropriations making corrections for inaccurate projections.

A formula for allocating funds to specific projects could be established by legislation and administrative responsibility could then be given to an executive branch agency. Allocation might also be considered a legislative or executive prerogative. Direct allocation by a policy-making body would allow for more discretionary use of the fund. The allocations might be readily adjusted to reflect policy changes or earnings performance.

Administration

Administration includes management of the principal, and management of allocations to endowed projects. Although ultimate responsibility for managing a fund rests with State officials, the day to day management responsibility might rest with agency staff or professional financial managers. For instance, the principal of the Alaska Permanent Fund is administered by the Department of Revenue. The Commissioner of Revenue is advised by a committee appointed by the Governor and he may enter into contracts for services providing investment advice.

ISSUES ASSOCIATED WITH M&O FUND FINANCING

It would appear that setting aside current funds so that the State's growing capital stock can be adequately operated and maintained in the future is prudent fiscal policy. However, there are a number of problems involved in implementing such a concept which detract from its usefulness in practice. This section discusses these potential problems.

Accounting Constraints

In order to implement a "fund" approach to financing M&O expenditures, it is necessary to: 1) project these expenditures with some confidence; and, 2) isolate these costs in operating budgets so that the funds can be allocated properly. During the course of our research it became apparent that an M&O fund could not be implemented at this time in Alaska because:

- 1) existing budget procedures do not record M&O expenses by the project for which they are incurred; consequently, there is no cost history by project, under Alaskan conditions, on which to base a projection;
- 2) costs vary widely in different parts of the state for the same type of M&O activity; this makes "rules of thumb" less useful as a way of estimating M&O costs; and,
- 3) M&O expenses currently are not broken out as a budget category, so there is no straightforward way of matching M&O fund monies allocated for a capital project to the costs incurred. (A description of the State's capital budgeting process is found in Appendix B).

As Jay Hogan, the Director of the Legislative Finance Division, noted, 'it is technically impossible to make accurate maintenance and operation projections and it would be difficult to keep track of extensive supplemental appropriations.'

Under current procedures, it would not be possible to determine the amount of money which should be appropriated to the fund, nor would it be possible to distribute those funds as needed to different capital projects. Implementing an M&O fund concept given these limitations in accounting practices would result in either 1) some capital projects receiving more money than they needed while others received less, if the fund allocates on a project basis, or 2) M&O expenditures as a whole being overfunded or underfunded, if the fund is used for all M&O costs regardless of project.

Flexible Priorities

Advocates of M&O funds argue that the dedication of revenues to provide a consistent source of financing for financial obligations incurred now is an act of fiscal responsibility. Opponents, however, argue that fiscal responsibility is better maintained through the ongoing legislative process than through a dedication which is binding on the future. They argue that there should be competition for funding among diverse public needs on a regular basis, because such competition and repeated evaluation permit changing priorities to be accommodated through the budget process. Problems might be created in the future if an M&O fund has more revenues than it requires while other programs have to sustain budget cuts.

Increased Future Revenues Through Investment Earnings

Advocates of endowment funds argue that they have the potential to appreciate in value through profitable investment of the principal. However, endowment funds also have the potential to depreciate in value; if their yield is below the inflation rate, the real value of the principal would be decreased. For example, during fiscal year 1980 the Alaska Permanent Fund had a rate of return of 11.3 percent, which provided little if any real growth.

Greater investment risk generally yields greater rewards and a strong profit motive, not present in the public sector, is necessary for successful investing. Therefore, it can be argued that public bodies are not well suited to make profitable investments as they tend to avoid risk. At the same time that the Permanent Fund was earning 11.3 percent, many private sector financial management firms, including those with low risk investment policies, have obtained rates of return far superior to the rates of return earned by some of the largest publicly administered funds.

It is generally recognized that large financial markets provide better opportunities for conservative investment than smaller markets. As the large financial markets are external to Alaska, the best opportunities for profitable low risk investment are often outside the state. However, many Alaskans object to external investments as they result in less money being made available for in-state use.

Limitation of Current Expenditures

While endowment funds do provide an opportunity to save current excess revenues and limit current expenditures, opponents of such funds see two problems: 1) limiting current spending does not allow the State to take the opportunity to make up for years of insufficient

revenues which created a backlog of unmet needs; and 2) there are other ways of limiting current spending (such as the Permanent Fund) which do not lead to future distortions in the operating budget.

SUMMARY AND DISCUSSION OF OTHER M&O RESEARCH

Summary of Findings

Our research on the creation of a maintenance and operating fund has led to the following conclusions:

- 1) Maintenance and operating costs for capital projects under construction and in the planning stage will place a large but indeterminate financial burden on the State in future years.
- 2) Setting aside current revenues into a fund from which future M&O obligations could be met is one way the State has of coping with this problem.
- 3) Unfortunately, the State's current system of capital budgeting and accounting for costs related to capital projects would not facilitate the implementation of such a concept. If a fund were established under such conditions, it would lead to future distortions in the allocation of State funds.

Further Research

Advocates of M&O funds argue that a large appropriation to the fund would attract attention to the future costs associated with capital projects. Currently a number of State agencies, as well as the University of Alaska, are considering ways, other than the creation of an M&O fund, of increasing the public's awareness of these costs and their fiscal implications. The remainder of this paper discusses some of these efforts, as well as those by DOTPF to improve the accounting process.

Expanded Budget Process. We discussed the merits of amending budgetary reporting requirements for the M&O component of the capital budget with staff from DOTPF, the Division of Budget and Management, the Legislative Finance and Budget and Audit. There was general consensus among the people we interviewed that M&O projections could, and should, be given greater visibility in the capital budgeting process, but that the projections are not considered accurate enough to be used for budget purposes. Some of the ways to increase visibility are discussed in greater detail below.

The Director of the Legislative Finance Division, Jay Hogan, reports that the potential of the existing budget process is not fully realized. He suggests that the Capital Budget and Six Year Capital Program could be expanded to include the projected operation cost information contained on the Form 35's as amended by the Division of Budget and Management under the direction of the Governor. Each legislator would then receive an enlarged Capital Budget and Six Year Program which would contain most of the M&O information which is available to the Governor.

The Legislative Finance Division has distributed blank Form 35's to each legislator and is encouraging them to complete these forms for each project which they propose. Jay Hogan states that the capital projects with the least M&O cost information tend to be the ones which are added during a legislative session by the legislature, especially those that are added towards the end of the session. Requiring legislators to complete Form 35's could place greater emphasis on the M&O cost components of capital projects and the long-term financial commitments resulting from capital expenditures. However, given the difficulty that DOTPF has in making accurate M&O projections, it is likely that legislators will also experience problems.

A study could also be performed to determine the actual M&O costs of existing capital projects. Results from this study could be used as the basis for projecting operating costs of projects proposed during the 1982 session. If a rule-of-thumb technique is established, legislators could use it to analyze the M&O component of both their own projects and those contained in the executive budget.

M&O Rankings. In discussions with the Governor's Division of Budget and Management we discussed the possibility of ranking proposed capital projects by the ratio of projected M&O costs to capital construction costs, and including this information in the executive capital budget. The capital budget might also contain a subtotal of projected M&O costs for each budget category. Until more accurate M&O data is generated, the existing estimates could be used as long as their limitations are explained.

A ranking of capital projects by M&O costs might be designed to separate projects into general categories of low, medium, and high ratios of M&O costs to construction costs. Projects in the high ratio category could be flagged for further analysis and explanation. An average ratio might be computed for each capital budget category and this could be used to highlight budget categories containing large M&O cost commitments.

Comparisons of Budgeted versus Actual Expenditures. Subtotals of M&O costs could be used to make comparisons between budget categories in a

current budget year. Specific budget category M&O estimates could also be compared to prior year budget category M&O estimates to look for changes in M&O commitments. A running total of current and prior year M&O cost projections could be used as a rough estimate of total M&O commitments. If the basic accounting system is improved and M&O expenditures attributable to specific capital projects become available, these costs could be added to current year capital budget M&O projections to estimate total future M&O commitments attributable to capital projects.

Accounting Improvements. In 1980, the accounting firm of Peat, Marwick, Mitchell completed a "Conceptual Design of a Management Information System" for DOTPF. The report recommends changes in the M&O cost reporting system to provide management with basic operational cost and historical cost comparison reports which could be monitored periodically. These reports would be designed to provide a basis for forecasting future costs.

In conjunction with the Department of Administration, DOTPF has employed the accounting firm of Price-Waterhouse to redesign the State's accounting system and to implement the management information system proposed by the Peat, Marwick and Mitchell study. The design and implementation of the new system is expected to take approximately three years, and when it is completed DOTPF expects each regional office to initiate an on-line computerized maintenance and operation information base which would be used to make life cycle cost projections for a wide variety of capital projects.

Chuck Gant, the Chief of Life Cycle Cost Analysis in DOTPF's Capital Program Office, reports that the new accounting system is expected to be a definite improvement over the existing system, but there are special Alaska circumstances which may continue to limit the usefulness of M&O cost projections.

According to Mr. Gant, the short summer construction season, especially in many rural communities, necessitates flexibility between accounts. The highest maintenance priorities receive immediate attention even if they are not properly budgeted because a delay might mean postponement to the following construction season. Mr. Gant also notes that the domestic contracting market is very thin as there are only about a half dozen large contractors in the state and a large project might keep a firm tied up for one or more years. Even if the DOTPF makes a good projection of repair or renovation expenses, the actual cost may be inflated by the premium which Alaska bidders charge when there is a scarcity of available labor.

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STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

August 19, 1981

APPENDIX A

Ann DeVries
Research Agency
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Ms. DeVries:

I am sending these preliminary comments, but encourage you to contact Burt Wagon, our Assistant Deputy Commissioner for the Maintenance and Operations Unit at 266-1443, for further comments. He will return from annual leave on August 24, 1981 (I have previously given him a copy of your draft memorandum for review).

In summary, let me say that I believe that you have done very thorough research, and have obviously contacted the appropriate sources within the Department of Transportation for the background history on the development of the Life Cycle Costing System and the development of the Management Information System. It might also interest you to know that the department has previously investigated the possibility of establishing standards for amounts of and quality of maintenance for given facility types. No firm conclusions were reached and no manual was produced; however, there has been considerable research accumulated that resides within our library in Juneau. I believe that to achieve the benefits you have described, the state would have to adopt some standards so that, as you suggest, there could be clear distinctions made as to what was eligible to be paid for from the Maintenance fund.

The only two substantial comments I believe we have to make relate to the method by which the fund would be endowed and the fact that one considerable portion of the Capital Budget has not been included for consideration in the endowment fund.

- 1) We suggest that consideration could be given to the idea of developing a percentage to be applied by facility type as a method of determining the amount of money to be entered into the endowment fund in any given capital budget year. This would have the added advantage of causing careful consideration of the long term impact that a capital facility will make on the state's operating budget as a part of the normal capital budget review process.

- 2) We also suggest that, since a considerable portion of the capital budget for the previous two years has gone to local governments in the form of municipal grants, consideration should be given to entering a percentage into the endowment fund to cover any obligation that the state might have in future years toward these facilities. Even though, under present statutes, a municipality which accepts a grant under the provisions of this program cannot request maintenance and operating funds from the state, it is conceivable that a future legislature could change that situation and put responsibility on the state for maintaining and operating facilities built under this program.

Again, I would like to commend you on the thoroughness of this paper, and would also like to state that I think the concept of a maintenance and operation fund is an excellent way to focus attention on the fact that the effect on the operating budget of building capital facilities is a considerably more significant portion of the financial burden that the state will bear in upcoming years than has previously been recognized. Perhaps you found, when reading the Life Cycle Cost Report, that the consultant determined the initial capital cost of the facility to be a very small percentage (between 15% and 20%) of the overall lifetime cost of owning and operating a facility.

If you have any questions, please contact me. I will be in Juneau on the second and third of September, and could possibly be available to discuss this further if you desire.

Sincerely,



Kit Duke
Regional Director
Planning and Programming
Central Region

cc: Bert Wagon

KD/g

APPENDIX B

This appendix reviews the shortcomings of the State's capital budgeting and accounting processes in relation to the use of a fund to finance M&O costs.

Budget Background

The executive budget currently includes M&O cost estimates for new capital projects. Each State department summarizes its proposed projects on a 'Form 35' which contains an operations cost section (see Attachment A). Form 35 is used to record projected annual operating cost, first year operating cost, ultimate annual operating cost and operational funding source. The forms are consolidated into nine program categories which contain a significant proportion of the capital project requests received by the Governor.

The Governor directs his Budget and Management Division to analyze the budget requests and prepare the executive budget which is summarized in two volumes, Book 1 - Operating Budget and Book 2 - Capital Budget and Six Year Program. The Capital Budget and Six Year Program contains an abbreviated summary of the Governor's recommended capital projects.

Each project is summarized on a form which contains only one reference to annual operating cost. The form does not include any explanation or qualification of the operating cost estimate. The summarized capital budget includes construction cost subtotals for each budget category and geographic region but it does not subtotal projected operation costs. The annual operating budget is divided into nine budget categories corresponding to the capital budget categories.

Maintenance expenditures over \$25,000 are generally included in the capital budget with the exception of the transportation category. Transportation maintenance expenditures are classified by transportation mode. Each mode may include several different facilities and their total maintenance cost is included in the operations budget even if the allocation to a particular facility is more than \$25,000.

Although many operating expenses are in some way related to specific capital projects, the operating budget does not aggregate operations costs which are attributable to specific facilities. Instead, operations costs are classified by budget program categories. Unfortunately, existing budget procedures do not list maintenance and operation expenses attributable to capital projects as an item in the budget categories of the operating budget.

Senator Fischer
August 24, 1981

M&O Cost Projections

When the Department of Public Works merged with the Department of Highways in 1977, a Life Cycle Costing Section was created and the new Department of Transportation and Public Facilities (DOTPF) initiated a major effort to devise a system of calculating life cycle costs for public facilities. The Department employed a consulting team (Maynard N.B.B.J., Hanscomb Assoc., Boeing Computer Services, and Industry Service Inc.) to assist in the project; the consultants submitted their report entitled "Alaska Life Cycle Cost System Users Manual," in 1979. The Department's data base was not adequate to operate the proposed system and it proved unworkable.

⊕ In 1979, legislation was passed requiring DOTPF to "... develop life cycle costs of public facilities...." describing, "... the first cost of procurement of the public facilities and the maintenance cost, operation cost, and occupancy cost of the facilities" [AS 35.10.175 (5) and AS 35.35.10.200 (1)]. In 1980, responsibility for capital project maintenance and operation cost projections was transferred to the regional offices of DOTPF.

Cost estimates are now prepared by facility planners at each regional office. However, the regional offices have a limited M&O data base for buildings and lack systematic data for roads, harbors and other facilities. The Southeast Regional Office is participating in an experimental program to develop an improved M&O program planning system (MOPPS) based on some of the original life cycle cost system recommendations.

DOTPF is also responsible for assisting other departments in their preparation of M&O projections for proposed public facilities. Alaska Statutes do not contain a clear definition of public facilities and Dick Brandt, the transportation analyst in the Office of Budget and Management, reports that life cycle costing is not performed on all capital projects.

Chuck Gant, the Chief of Life Cycle Cost Analysis in DOTPF's Capital Program Office reports that a combination of accounting limitations and special Alaska circumstances limit the accuracy of M&O cost projections so that the average projection has a 20 percent variation from actual expenditures. He estimates that the current cost accounting system is 25 years out of date. It was designed to record expenditures by program category, and this was considered adequate until the recent increase in capital expenditures.

The current accounting system does not allocate M&O expenditures to specific facilities. Supplies are typically purchased in bulk for a

Senator Fischer
August 24, 1981

group of facilities and are distributed as needed by each facility. The payment system is not standardized so it is even difficult to compare one group of facilities to another. Mr. Gant estimates that as much as 30 to 50 percent of building M&O costs may not be attributable to specific projects. Thus, it is very difficult to develop a useful data base for projecting M&O costs for specific capital construction projects based on historical experience.