

ANNALS OF THE ENTOMOLOGICAL SOCIETY OF AMERICA

2334 SHESS SB 122 - SB 158 (FILE 1)

212

Original sponsors: Josephson and V.Fischer

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 122 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to protection of the elderly."

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

8 \* Section 1. PURPOSE. In order to protect elderly persons from physi-  
9 cal harm resulting from abuse, neglect, and abandonment and to assist  
10 elderly persons who are unable to protect or care for themselves, the  
11 legislature requires the reporting to the state by health professionals and  
12 others of cases involving elderly persons who have been or are being phys-  
13 ically harmed. It is the intent of the legislature that these reports of  
14 harm be investigated and that appropriate protective services be offered in  
15 an effort to prevent or alleviate physical harm to the elderly persons of  
16 the state. It is further the intent of the legislature to provide immunity  
17 from civil or criminal liability to persons making good faith reports of  
18 physical or other harm to an elderly person.

19 \* Sec. 2. AS 47 is amended by adding a new chapter to read:

20 CHAPTER 24. PROTECTION OF THE ELDERLY.

21 Sec. 47.24.010. REPORTS OF HARM. (a) The following persons  
22 who, in the performance of their professional duties, have reasonable  
23 cause to believe that an elderly person has suffered physical harm as  
24 a result of abuse, neglect, or abandonment shall, not later than 24  
25 hours after first having cause for the belief, report the harm to the  
26 Department of Health and Social Services:

- 27 (1) a physician or other licensed health care provider;  
28 (2) a mental health professional as defined in AS 47.30.-

29 915(11);

- 1 (3) a pharmacist;
- 2 (4) an administrator of a nursing home, residential care or
- 3 health care facility;
- 4 (5) a guardian or conservator;
- 5 (6) a police officer as defined in AS 18.65.290(2);
- 6 (7) a village public safety officer;
- 7 (8) a village health aide;
- 8 (9) a social worker;
- 9 (10) a member of the clergy;
- 10 (11) a staff employee of a project funded by the Older
- 11 Alaskans Commission;
- 12 (12) *an employee of a* ~~a participant in the department's~~ homemaker program or
- 13 home health aide program.

14 (b) A report of harm made under this section may include the

15 name and address of the person reporting the harm and shall include

- 16 (1) the name and address of the elderly person;
- 17 (2) information relating to the nature and extent of the
- 18 abuse, neglect, or abandonment;

19 (3) other information that the person reporting the harm

20 believes might be helpful in an investigation of the case or in pro-

21 viding protection for the elderly person.

22 (c) A person who fails to comply with this section is guilty of

23 a violation as defined in AS 11.81.900(55).

24 (d) This section does not prohibit a person listed in (a) of

25 this section from reporting cases of physical or other harm to an

26 elderly person that have come to the person's attention in a non-

27 professional capacity, nor does it prohibit any other person from

28 reporting physical or other harm to an elderly person that the person

29 has reasonable cause to believe is a result of abuse, neglect, or

1 abandonment.

2 (e) If immediate action is necessary to protect the elderly  
3 person from imminent physical harm, the person shall make the report  
4 of harm to a police officer as defined in AS 18.65.290(2) or a village  
5 public safety officer. The police officer or village public safety  
6 officer shall take immediate action to protect the elderly person and  
7 shall, at the earliest opportunity, notify the department.

8 (f) A person who, in good faith, makes a report of physical or  
9 other harm to an elderly person under this chapter, or who partici-  
10 pates in judicial proceedings related to the submission of reports  
11 under this chapter, is immune from any civil or criminal liability  
12 that might otherwise be incurred or imposed.

13 Sec. 47.24.020. ACTION ON REPORTS. (a) Upon receiving a report  
14 of physical harm, the department shall promptly initiate an investiga-  
15 tion to determine the physical condition of the elderly person named  
16 in the report and whether action or services are needed for the pro-  
17 tection of the elderly person. The department shall personally inter-  
18 view the elderly person during the investigation, unless the person is  
19 ~~incompetent~~, unconscious, or otherwise physically <sup>or mentally impaired to such an extent</sup> unable to respond to  
20 questions.

21 (b) The department shall prepare a written report of the inves-  
22 tigation, including findings, recommendations, and a determination of  
23 whether and what kind of protective services are to be offered to the  
24 elderly person. Upon request, the person who reported harm to the  
25 elderly person shall be notified of the status of the investigation.  
26 The department shall provide to the Department of Law a copy of each  
27 report of an investigation of harm to an elderly person that resulted  
28 from abuse.

29 (c) The department shall immediately terminate an investigation

1 under this section upon the request of an elderly person who is the  
2 subject of a report of harm. However, if the department has reason-  
3 able cause to believe that the elderly person is incapacitated, the  
4 department may petition the superior court under AS 13.26 for appoint-  
5 ment of a guardian or temporary guardian for the elderly person for  
6 the purpose of obtaining consent to continue the investigation.

7 Sec. 47.24.030. PROTECTIVE SERVICES. (a) The department shall  
8 provide available protective services to a harmed elderly person if  
9 and to the extent to which the elderly person consents. If the de-  
10 partment has reasonable cause to believe that the elderly person lacks  
11 the capacity to consent to receiving protective services, it may  
12 petition the superior court under AS 13.26 for appointment of a guard-  
13 ian or temporary guardian for the elderly person for the purpose of  
14 obtaining consent.

15 (b) If an elderly person who has consented to receiving protec-  
16 tive services is prevented by a caretaker from receiving the services,  
17 the department may assist the elderly person to petition the superior  
18 court for an injunction restraining the caretaker from interfering  
19 with the provision of protective services to the elderly person.

20 Sec. 47.24.040. REVIEW AND REFERRAL. The department shall, not  
21 later than 90 days after initiating the provision of protective ser-  
22 vices to an elderly person, initiate a review of the case to determine  
23 whether continuation or modification of protective services that are  
24 being provided is warranted. The department shall reevaluate the case  
25 every 90 days thereafter until the case is closed.

26 Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation  
27 reports and reports of harm filed under this chapter are confidential  
28 and are not subject to public inspection and copying under AS 09.25.-  
29 110 - 09.25.125. However, in accordance with this chapter and

1 department regulations issued under this chapter, investigation re-  
2 ports may be used by appropriate governmental agencies inside and  
3 outside the state, in connection with investigations or judicial  
4 proceedings involving abuse, neglect, or abandonment of an elderly  
5 person.

6 (b) The department shall disclose a report of harm if the elder-  
7 ly person who is the subject of the report consents in writing. The  
8 department shall, upon request, disclose the number of verified re-  
9 ports of harm that occurred at an institution for care of the elderly,  
10 <that is certified by the state>

11 Sec. 47.24.060. AUTHORITY OF THE DEPARTMENT. In performing its  
12 duties under this chapter, the department may, subject to the person's  
13 consent, initiate actions necessary to assure the health, safety and  
14 welfare of an elderly person, including the transfer of the elderly  
15 person from a nursing home, residential care or health care facility.

16 Sec. 47.24.070. REGULATIONS. Regulations to implement this  
17 chapter shall be approved by the Older Alaskans Commission (AS 44.21.-  
18 200) before adoption by the department.

19 Sec. 47.24.075. QUARTERLY REPORT. The department shall submit  
20 to the Older Alaskans Commission each quarter a statistical report of  
21 the department's activities related to the protection of elderly  
22 persons in the state. The report may not disclose the identity of  
23 victims or perpetrators of the abuse, neglect, or abandonment.

24 Sec. 47.24.100. DEFINITIONS. In this chapter

25 (1) "abandonment" means ~~in fact~~ <sup>A</sup>desertion of an elderly person by a  
26 caretaker;

27 (2) "abuse" means the infliction of physical pain, injury,  
28 or mental anguish, or the deprivation by a caretaker of services that  
29 are necessary to maintain the physical and mental health of an elderly

1 person;

2 (3) "caretaker" means a person who is responsible for the  
3 care of an elderly person as a result of family relationship, or who  
4 has assumed responsibility for the care of an elderly person volun-  
5 tarily, by contract, or by court order;

6 (4) "department" means the Department of Health and Social  
7 Services;

8 (5) "elderly person" means a resident of Alaska who is 60  
9 years of age or older;

10 (6) "incapacitated" means a person's ability to receive and  
11 evaluate information or to communicate decisions is impaired for  
12 reasons other than minority to the extent that the person lacks the  
13 ability to obtain the essential requirements for physical health or  
14 safety without court-ordered assistance;

15 (7) "neglect" means the failure by the caretaker or an  
16 elderly person to provide services necessary to maintain the physical  
17 and mental health of the elderly person;

18 (8) "protective services" means services intended to pre-  
19 vent or alleviate harm resulting from abuse, neglect, exploitation, or  
20 abandonment.  
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319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

RECEIVED

MAR 28 1983

Josephson,

March 28, 1983

Subject: Senate Bill 122

The Honorable Vic Fischer  
Senator  
Pouch V  
Juneau, Alaska 99811

Dear Senator Fischer:

You ask for clarification of our request that non-licensed employees of nursing homes not be required as a matter of law, with penalty to report elderly abuse. Simply put, we do not believe any higher obligation of citizenry ought to attach to unlicensed employees of a nursing home than it would if that same person, a cook or janitor for example, worked elsewhere.

Section 010 requires persons listed in subsections 1-12 to report elderly abuse when "in the performance of their professional duties, have reasonable cause to believe that an elderly person has suffered physical harm as a result of abuse, neglect or abandonment." Under subsection (c) a violation as defined in AS 11.81.900(55) attaches to anyone listed in Section 010 who fails to make a required report. Further, we would point out that subsections (d) and (f) encourage and offer civil immunity to those not required to make reports to do so as a matter of good conscience and concern for an abused person.

We believe that an obligation under law ought to attach only to those most likely to be able to effectively judge abuse. In the institutional setting, we suggest that licensed physicians, licensed nurses, administrators and social workers are far better qualified to make clinical judgements than cooks and janitors. Is, for example, a decubitus ulcer elderly abuse, or is a specific drug regimen, psychotropic for example, behavior modification for the patient's benefit in a case of depression or to minimize the number of nursing hours required by limiting the patient's mobility. We believe that trained persons should be required by law to make these judgements.

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Humana Hospital Alaska  
Anchorage

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Sitka

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Trustee, Providence  
Hospital  
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Alternate Trustee Delegate  
to American Hospital  
Association  
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Central Peninsula Hospital  
Soldotna

Physician Member of  
the Board  
Keith Brownsberger, M.D.  
Anchorage

President  
Dennis L. DeWitt  
Juneau

March 28, 1983

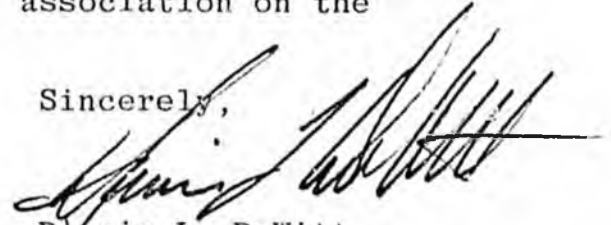
Since medical, nursing and social worker staffs are a required part of a licensed nursing home, unlike board and care or other facilities, we believe that a mandatory obligation upon professionals is sufficient protection for the patient.

In considering a mandatory obligation attaching to non-licensed employees of a nursing home we believe that consideration should be given to the employee's rights as well. We believe that persons employed by nursing homes should be encouraged to report and protected when they do report. CSSB 122 does this without burdening these individuals with a legal penalty when the sophistication of the abuse might well surpass the person's training. The bill requires "performance of professional duties." We simply do not believe that all employees in a nursing home have "professional duties."

The Alaska State Hospital Association supports CSSB 122(HESS) and believes that in its present form it will greatly improve the detection and prevention of elderly abuse.

I hope this clears up any misunderstandings about the position or attitudes of this association on the subject of elderly abuse.

Sincerely,



Dennis L. DeWitt  
President

DLD:hb

cc: Senator Joe Josephson  
Lois Pillifant, Senior Citizen Ombudsman

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: CSSB 122  
 Title: "... Protection of the Elderly"  
 Sponsor: Senators Josephson and V. Fischer  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Administration  
 Program Category Affected: Social/Economic  
 BRU, Program of Subprogram(s) Affected: Older Alaskans Commission  
Assistance for the Age

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Jon B. Wolfe, Executive Director *Jon B. Wolfe* Phone: 465-3250  
 Division: Older Alaskans Commission Date: 5/16/83  
 Approved by Commissioner: Lisa Rudd *Lisa Rudd* Date: 5/16/83  
 Department: Administration

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor

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ORIGINAL.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department <b>Administration</b>	Sponsor (Principal) <b>Rep. Clocksin</b>	Bill Number <b>HB 192</b>
Department Position <b>The Older Alaskans Commission supports the enactment of elderly protection legislation and the mandatory reporting of physical abuse of elderly persons.</b>		
Division Director <b>Jon B. Wolfe</b>	Date <b>3/3/83</b>	Commissioner <b>[Signature]</b>

GOVERNOR'S OFFICE USE

Comments:

Position Noted By \_\_\_\_\_ Date \_\_\_\_\_

SUMMARY

1. Related Bills (Similar or Conflicting) <b>SB 122 Sens. Josephson &amp; Fischer</b>	1. b) Other Agencies Affected by Bill <b>Division of Family and Youth Services, DHSS</b>
2. a) Organizational Support for Bill <b>1. Anchorage Elder Abuse Task Force 2. Office of Senior Citizen Ombudsman 3. Alaska White House Conference Delegates</b>	2. b) Organizational Opposition to Bill <b>Unknown</b>

3. Program Effects of Bill

The responsibilities assigned to the Commission under this legislation are consistent with current responsibilities and functions and will not require additional staff or expenditures. Under AS 44.21.230 the Commission is authorized to make recommendations with respect to regulations for services that benefit older Alaskans and to receive reports from state agencies concerned with the conditions and needs of older Alaskans.

4. Fiscal Impact:  None  Fiscal Note Attached

5. Amendments Proposed:

Commission staff recommends that "willful" be inserted before "deprivation" under Definitions, Sec. 47.24.100, (2) line 23.

6. Comments:

This legislation is consistent with AS 44.21 and the legislative mandates of the Older Alaskans Commission which seek to ensure health and dignity for the State's elderly. Historically elder abuse is a hidden social problem but one that is encountered by Commission funded senior programs statewide. These programs and the Commission will welcome specific procedures and services for handling these critical problems.

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

## LOCAL AND NATIONAL FINDINGS:

### FAMILY VIOLENCE AS CRIME:

- one-third (1/3) of all female homicide victims in California were murdered by their husbands (FBI, 1971)
- one-fourth (1/4) of all murders in San Francisco involve legally married or co-habiting mates (SFPD, Homicide Bureau, 1974)
- over 50% of all assaults and 40% of all assaults with a deadly weapon in the Bay Area on February 14, 1981 were the direct result of family violence (S.F. Examiner)
- a Kansas City study found that in 85% of all family homicides, police had been called at least once previously and in 50% of the homicides, the police had been called to the home five or more times prior to the murder (1978)

### SEVERITY OF ASSAULTS:

- the Emergency Room at S.F. General Hospital reports that they treat 150-200 acutely battered women each month
- 20% of all hospital emergency room visits by women (and 70% of all sexual assault cases) are attributed to wifebeating (McGrath, 1979)

### IMPACT ON THE CHILDREN:

- 25% of all victims of domestic violence are beaten when they are pregnant (Dr. Richard Gelles, 1975)
- in one-half of spouse abusing families, the children are battered as well (Women's Educational Action League, 1979)
- sixty-three percent of boys, ages 11-20, who commit homicide murdered the man who was beating their mothers (Senate Hearings)

### ABUSE OF THE ELDERLY:

- five hundred thousand to one million elderly are abused in this country every year
- the most severe cases of violence seen by the Family Violence Project have been assaults on the elderly



**FAMILY VIOLENCE PROJECT**

50 Ivy Street, Second Floor, San Francisco, California 94102  
(415) 552-6554

Mar 4, 1983  
JB 122 - Protect of Elderly

Joe, Pappay, Halford

Barbara McPherson - Older Ok Comm.

21 states mandatory reporting laws for elder abuse.  
1982 - 16 reports of abuse to Senior Ambassadors -

Norma Lundy - Anch. Senior Citizens

Dave Kull - OAC

Mike Price - Dir., Family & Youth Services.

11 special workers exclusively for the  
elderly.

Civian supports

Beth Bishop SE Senior Services

services in 15 communities in SE for 10 yrs.

add to list

village Pub. Soc. Officer  
Home health aides.

Dennis DeWitt - Ok State Hosp. Assoc.

Linkey Dea - Elder Abuse Task Force - Juneau Sept. 1982  
14 agencies in Juneau represented.

Ypsilanti  
paper?  
fiscal year?

S

B

129

Senator Bob Ziegler  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Ziegler,

We want to take this opportunity to thank you for your continued support of E.M.S. programs in Southeast Alaska.

It has come to our attention that you and Senator Eliason are proposing legislation to encourage CPR and First Aid instruction in the schools. We heartily lend our support toward this endeavor, and would ask you to also seek changes through the Board of Education that would require teachers to be certified in CPR and First Aid in order to meet requirements for recertification. This could be accomplished through inservice, utilizing local instructors, and we feel it is important that those who deal every day with large numbers of children should have these skills.

Wallace "Butch" Schmidt, Wrangell High School Science and Computer teacher, became a CPR instructor in 1982 and certified seventy-three High School students in CPR from among his classes. Butch plans to become a First Aid instructor and is very enthusiastic about teaching these skills.

He has asked the Wrangell School Board to set aside funds in the 1983/84 Budget that he may continue to offer these skills to the students. He has proposed that funding be used for equipment needs and also that one period a day be funded to teach the skills. Butch would like to see ALL public school employees certified in First Aid and CPR.

The Wrangell EMS Council has also applied for grant monies to cover fifty percent of some equipment which can be used both for public school and Community classes.

We hope that you will continue to support us in this worthwhile effort. If you have any questions, please do not hesitate to contact either Butch or myself.

Sincerely,

*Trudy Johnson R.N.*

Trudy Johnson, R.N.  
Wrangell EMS Council

GSJ/skj

POSITION PAPER

Senate Bill No. J29

"An Act relating to cardiopulmonary resuscitation (CPR) instruction in the public schools."

This bill would amend AS. 14.30.360 (a) to add instruction in cardiopulmonary resuscitation (CPR) to health education programs which are encouraged by the state to be taught in public schools.

The Division of Public Health of the Department of Health and Social Services strongly supports this bill for the following reasons:

- 1) Numerous national studies have shown that if a victim of cardiac arrest receives basic CPR within four minutes of collapse and advanced cardiac life support within eight minutes, the victim has a good chance of survival;
- 2) CPR is the basic, initial recommended treatment for any condition resulting in cardiac arrest, including severe trauma, drowning, or electric shock;
- 3) Medical experts in the Division of Public Health believe that, if all able bodied citizens are trained in CPR, numerous lives can be saved each year; and
- 4) One good way to ensure that large numbers of citizens receive CPR instruction is to include it in school curricula.

Recommended by: E. S. Rabeau, M.D.  
 E. S. Rabeau, M.D., Director  
 Division of Public Health

Date: Feb. 23, 1983

Approved by: Robert London Smith  
 Robert London Smith  
 Commissioner

Date: 2/25/83

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill No. 129 Date on Bill: 2/17/83  
 Title: Cardiopulmonary Resuscitation (CPR) instruction in public schools.  
 Sponsor: Ziegler, Eliason and Ferguson  
 Requestor: Health, Education and Social Services and Finance

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital	0	0	0	0
Operating	0	0	0	0
Total	0	0	0	0

b. Revenues:

Revenue				
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2. Source of funds to offset fiscal impact of bill:

Funds to implement this bill are to be appropriated under SB 130.

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Mark S. Johnson *MSJ* Phone: 465-3027  
 Division: Public Health, Emergency Medical Services Section Date: 2/23/83

Approved by Commissioner: *Robert Gordon Smith, Ph.D.* Date: 2/25/83  
 Department: Health and Social Services

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

# Southwest Region Emergency Medical Services Council

BOX 2170

SITKA, ALASKA 99835

TELEPHONE 747.8005  
747.6370

December 16, 1982

Senator Richard Eliason  
P.O. Box 143  
Sitka, Alaska 99835

Dear Senator Eliason:

I'm really pleased that you are interested in promoting the inclusion of CPR in school curricula. I consider knowledge of the technique to be critical for anyone living in Alaska. CPR has to be started within 4 - 6 minutes once the heartbeat stops if the victim is to survive which isn't enough time for an ambulance to arrive.

I think that the most exciting news in emergency medicine in the past few years, and particularly relevant to Southeast Alaska, is that people who drown in cold water can be resuscitated with no resulting brain damage even after submersion for long periods. Cases have been documented after submersion for up to 45 minutes. As soon as the victim is pulled out of the water, however, CPR must be initiated immediately. Just a few years ago, rescuers would not have known to try resuscitation on such victims. We have an excellent videotape on this topic that we show in all CPR classes. If you have a chance before the session begins, you may want to stop by our office to see it.

As we discussed, I found through speaking to several people from the State Department of Education that Alaska has a fairly strong policy of local determination over school curricula. The enclosed statute, however, provides a very appropriate place to add cardiopulmonary resuscitation as a health related subject that school districts should be encouraged to provide. I understand that when this paragraph was first added, it led to the Department's development of health education curricular materials for use by school districts. The addition of CPR to this paragraph should help us in establishing this as a priority subject for their attention.

In order to teach CPR, school districts must have available a certified CPR instructor, an adult mannikin, a baby mannikin and a film depicting the technique.

Our office, over the past few years, has been training CPR instructors and now have instructors available in most Southeast communities. We have used part of our operating grant funds to cover travel costs to provide this training. EMS programs that parallel ours in other

regions of the State have been doing the same to varying degrees.

One of the obstacles encountered by these volunteer instructors is the availability of the mannikins and film. In the past, we have loaned out mannikins but availability as well as the cost of shipping them (they are quite heavy) posed a problem. With some of the capitol funds you helped to provide last session, we were able to provide matching funds for several communities but gaps remain, especially on a Statewide basis.

In talking to teachers and administrators, I found little resistance to offering CPR as long as they could work out the logistics of having the instructor and training equipment available. I think that an effective approach would be to provide, as an incentive, a CPR mannikin, torso style, for any school district that incorporates CPR into it's curriculum.

There are 53 school districts in the State. Safety Inc., an Anchorage supplier, quote the price after April 1, 1983 of \$420 per mannikin plus shipping which I consider a good price. The maximum cost for the program, allowing \$30 per mannikin for shipping, would be \$23,850. If a school district had already purchased an adult mannikin, they could use the funds instead to buy a baby mannikin (\$350) or a second adult as it is much easier if more than one is available for students to practice on.

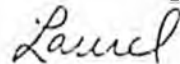
The film we can loan from our office. We already have two copies but they are booked up for months in advance so I'll be requesting a couple more copies in our agency's capitol budget request this session. I will also talk to the other EMS programs to make sure they have it available to loan.

I think that this approach is one that for a relatively small amount of State funds, a great deal of local commitment might be generated. Since Regional EMS programs are involved in CPR instruction and coordination, I think that the funds would best be allocated to us through the State EMS Office. As we receive copies of all CPR class rosters, we can easily identify which schools are offering CPR or, for school districts that are not, we can assist them in getting programs started.

I just wrote a memo to our Board members on some of our current projects which I've enclosed for your information.

Hope you have a nice Christmas.

Yours Truly,



Laurel Anderson  
Executive Director

school system shall be encouraged to initiate and conduct a program in health education for kindergarten through grade 12. The program should include instruction in physical health including alcohol and drug abuse education, dental health, family health, environmental health, and appropriate use of health services.

← d  
CPR  
instruction

(b) The state board shall establish by regulation guidelines for a health education program. A school health education specialist position shall be established and funded in the department to coordinate the program statewide. Adequate funds to enable curriculum and resource development, adequate consultation to school districts, and a program of teacher training in health education shall be provided. (§ 1 ch 188 SLA 1976; am § 1 ch 106 SLA 1978)

Revisor's notes. — The words "of education" were deleted following "board" and "department" by the revisor of statutes under AS 01.05.031 and 14.60.010.

sentence of subsection (a).

Editor's notes. — Section 2, ch. 106, SLA 1978, provides: "It is the intent of the legislature that public school systems implement a program of alcohol and drug abuse education in coordination with other health education programs."

Effect of amendments. — The 1978 amendment inserted "including alcohol and drug abuse education" in the second

Sec. 14.30.370. Evaluation. Health education programs conducted under AS 14.30.360 shall be evaluated by the department in the same manner as other curriculum programs are evaluated, except that the evaluation shall also include changes in the health status of the pupils as determined by physical and dental examinations conducted under AS 14.30.070 and 14.30.120. (§ 1 ch 188 SLA 1976)

Revisor's notes. — The words "of education" were deleted following "depart-

ment" by the revisor of statutes under AS 01.05.031.

### Article 5. Bilingual — Bicultural Education.

#### Section

- 400. Bilingual-bicultural education
- 410. Bilingual-bicultural education fund

Collateral references. — 68 Am. Jur. 2d Schools, §§ 283-289.  
79 C.J.S. Schools and School Districts, §§ 484-492.

Validity of statute or other regulations as to the use, or teaching, of foreign languages in schools. 7 ALR 1695, 29 ALR 1452.

CPR in  
School Curriculum

# Southeast Region Emergency Medical Services Council

BOX 2170

SITKA, ALASKA 99835

TELEPHONE 747.8005  
747.6370

TO: All Board Members  
FROM: Laurel Anderson  
DATE: November 29, 1982

We have several interesting projects underway this winter. Here's an update on what we've been doing:

Ambulance Development Workshop - Seventeen Southeast communities are sending a rescue service representative to a two day workshop we are co-sponsoring with SEARHC this weekend. The workshop is geared to assist communities in organizing ambulance services and will cover such topics as fundraising, setting up community based continuing education, working with other public safety agencies, EMS communications, & medical control. A skills session on extrication will also be included.

EMT Refresher/EMT II Class - During October, we offered our first EMT II Class. Steve Tuthill, along with several Ketchikan physicians & Doctor Shimer, offered the 50 hour class to a select group of industrial site EMT's, Ketchikan Fire Dept. members & CG personnel. The week preceding, Harry Chartier taught an EMT refresher class to the group following which they were tested on basic skills.

Training Committee Meeting - A set of standing orders at the EMT II level was developed for the Ketchikan trainees. On Jan. 15, the Training Committee will meet to review & adapt these orders toward development of a regionally recommended set. All physicians sponsoring ambulance services have been invited.

Flight Attendant Training - Cindy Jimmerson & Dr. Copass offered a flight attendant training session for a group of nurses representing each of Southeast's hospitals during October. This two day workshop included initial assessment, preparation of the patient for flight, altitude physiology & its effect on patient condition & the mechanics of patient care during flight. Response was very positive, convincing us that the training should be offered on a regular basis & that a similar program at the EMT level should be offered.

EMT Instructor Class - EMT's who are interested in teaching the EMT class for their community will be attending this five day methods of instruction class, scheduled December 13-17. In addition to Southeast participants, EMT's from Copper Center, Nome & Bethel will be attending. This class should enable communities to be more selfsufficient in meeting their training needs and thereby ease the demands on our staff instructors.

Community ETT Classes - Although we are working with communities the size of Craig & larger to develop their own ETT Instructor capabilities; our staff expects to continue to provide ETT classes for the very small communities. During January, Donna will be teaching in Elfin Cove & Tenakee, We are also expecting to offer an ETT class in Meyers Creek this winter, and Port Alexander this Spring.

Thorne Bay Ambulance - The now completed Green Lakes Hydro Project donated to us their ambulance which we, in turn, donated to the newly incorporated town of Thorne Bay. Through fundraising events & matching funds from our office, Thorne Bay now has the ambulance equipped & in service. Since Thorne Bay is connected by road to a physician staffed clinic in Craig, the ferry terminal in Hollis, and several logging camps; an ambulance based there should prove valuable.

In-Service Coordinators Meeting - Nursing In-service Coordinators from Southeast Hospitals met with Cindy Jimmerson in Anchorage the evening before the Symposium. One of the topics discussed was the planned EMT course for nurses to be provided at each hospital this winter. In-service Coordinators plan to explore with local fire depts. the possibility of their observing during runs as a follow up to the training.

Introduction to Legislators - Letters introducing our program have been sent to newly elected legislators in Southeast. Programs being offered in their district this winter were summarized.

Prince of Wales EMT - During October, Steve Tuthill & Donna Limbeam offered an EMT Class in Klawock. Trainees from Southeast, primarily from Prince of Wales communities & logging camps, attended. Instructional assistance was provided by Dr. Gary Carlson from Ketchikan; Joan Nugent, Itinerant PHN; and Kurt Welser, RN (though not presently employed as such) from Thorne Bay. John Saito from SEARHC concurrently offered an EMT refresher class for Craig & Klawock EMT's. Steve & Donna also trained a few Craig & Klawock residents as CPR Instructors during their visit.

CPR in the Schools - Next weeks, I will be offering a presentation on CPR curricula for the schools at the "Small Schools Conference" in Anchorage. Barbara Johnson of the Heart Association will be assisting & Glória Way of the State EMS Office will introduce a packet she developed on watersafety instruction. The conference will include administrators & teachers from small schools throughout Alaska. Senator Eliason has expressed an interest in introducing legislation geared toward encouraging CPR inclusion in school curricula. This conference should offer an opportunity to find out how widespread CPR in the schools is at present, & what obstacles are being encountered.

EMS Supplement - We plan to put together a news supplement on EMS in Southeast during January. Cindy will be serving as editor for this collection of articles which will then be inserted in all Southeast newspapers. If you have ideas for good articles or are willing to write one, please contact Cindy.

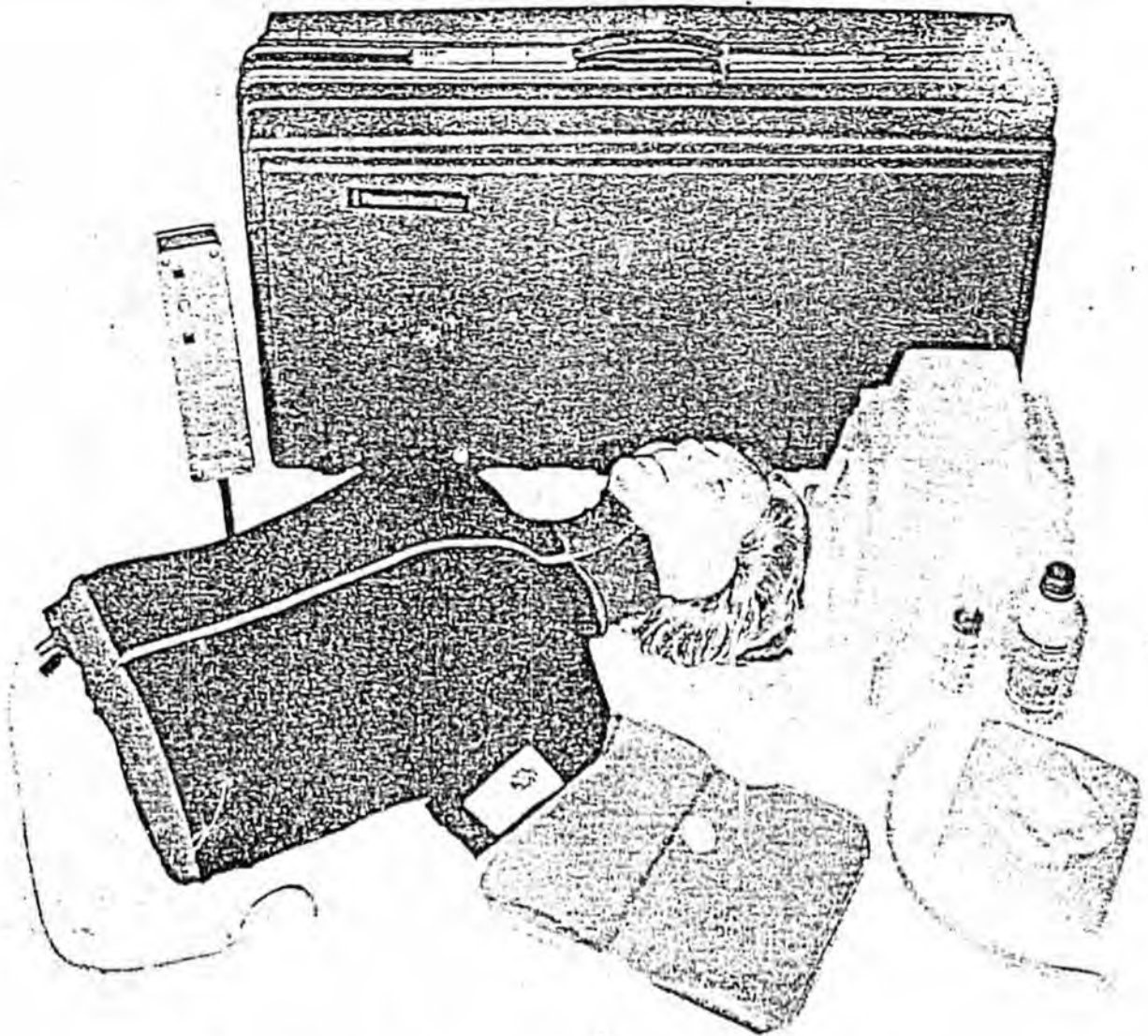
Sitka ACLS Course - A course in advanced cardiac life support techniques was offered for Sitka Community and Mt. Edgecumbe PHS Hospital physicians during November. Two physicians from Seattle offered the course under the sponsorship of the EMS Council.

ATLS Course - Our next Advanced Trauma Life Support course will be offered December 10-12. Dr.'s Copass, Longenbaugh, Carlson and Funk will instruct twelve physicians from Metlakatla, Ketchikan, Sitka, and Juneau in emergency surgical techniques.

CPR Instructor Award - At our last Board meeting, we agreed to pay expenses for the volunteer CPR Instructor who had taught the most classes to attend the State EMS Symposium. A tally of rosters showed Sister Angelina Dutra of Sitka to be the winner.

No doubt I've forgotten a few things but I'm getting tired of writing, and you're no doubt getting tired of reading.

Hope you enjoy the holidays.



## RESUSCI ANNE TORSO

Resusci Anne Torso has most of the features of the full-sized Resusci Anne. The manikin, which comes without arms and legs, is lightweight, easy to maintain and economically priced. It is an ideal companion to full-sized CPR manikins like Resusci Anne and Recording Resusci Anne. Resusci Anne Torso comes with the same accessories as the full-sized Resusci Anne, and is available both with and without the signal box (same box used for Resusci Anne).

**PART No. 5411101**

Resusci Anne Torso complete with electronics, in a sturdy, plastic molded carrying case, disinfection kit, spare lungs and instruction manual. . . . . \$435.00

**PART No. 5402001**

Resusci Anne Torso ' practice without electronics, in a sturdy, plastic molded carrying case, disinfection kit, spare lungs and instruction manual. . . . . \$290.00

To Convert Torso Models: To full body models

**PART No. 5411240**

Signal Box and Electronics (For Torso Practice Models) . . . . . \$229.50

**PART No. 5411255**

Full-Body Kit (Arms, Legs, and Trousers) . . . . . \$160.00

**PART No. 5411210**

Full Body Carrying Case . . . . . \$113.50

*(last year's catalog price has increased!)*

April 4

HSS mtg.

Joe Vic, Pappy

SB 129 - SB 130

Guy Van Doren - Zeigler

CR instruction in public school.  
28,000 approx. for materials and films  
if schools initiate program they  
become eligible to purchase materials.

Steve Hale - ok

Pappy - more bills

limited by discipline  
limited by campus (FBKS.)

S

B

135

Pappy, Paul, Joe

Joe intro - language in CS and added changes from Gene Kennedy.

OB 135

Gene Krause - Support from NEA

Kerry Ramesburg -

- zero fiscal rate - no admin costs.
- no money attached unless money is awarded.

passed w/ Kennedy amendments

STATE OF ALASKA  
FISCAL NOTE

Revision Date 5-4, 1983

I. REQUEST

Bill/Resolution No.: SB 135  
 Title: Est. Nick Begich Mem. Sch. Loan  
 Sponsor: Kerttula, Rav, Rodev  
 Requestor: HESS

II. FISCAL DETAIL

Agency Affected: Education  
 Program Category Affected: Postsecondary Comm.  
 BRU, Program of Subprogram(s) Affected: Memorial Loan

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>	N.A.	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kerry D. Romberg Phone: 465-2854  
 Division: Alaska Commission on Postsecondary Education Date: 5/4/83  
 Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Department: \_\_\_\_\_

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83



STATE OF ALASKA  
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 16, 1983

SUBJECT: Nick Begich memorial scholarship  
(SB 135)

TO: Senator Jalmar M. Kerttula

FROM:  Linn H. Asper  
Legislative Counsel

In preparing a house version of your bill creating a Nick Begich memorial scholarship (SB 135), I have decided that additional sections are necessary to conform the Begich scholarship to the other memorial scholarships contained in AS 14.43. Although the additions may not be strictly necessary as a legal matter, I think they would be helpful. I am enclosing a draft of the proposed changes to the bill for your consideration. If you wish I can prepare a sponsor substitute or a committee substitute that incorporates the changes.

LHA:ljb

Enclosure  
10/005

S B

158

(FILE)

A M E N D M E N T

Offered in the SENATE

by P. Fischer

TO: SB 158

\* Section 1. Section 30, ch. 82, SLA 1981, page 172, line 12 is repealed.

\* Sec. 2. Section 4, ch. 25, SLA 1982, page 16, line 5 is amended to read:

ALLOCATIONS

Supplement for ch. 82 ports  
and harbors

900,000

\* Sec. 3. Section 80, ch. 101, SLA 1982, page 74, line 15 is repealed.

\*Sec. 4. The sum of \$2,000,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for port and harbor projects to be allocated as follows:

- |   |           |
|---|-----------|
| (1) Port San Juan dock repair   | 800,000   |
| (2) Whittier Shotgun Cove Harbor economic feasibility analysis, preliminary engineering, and design | 1,200,000 |

\*Sec. 5. The sum of \$2,100,000 is appropriated from the general fund for payment as a grant to the City of Valdez for small boat harbor expansion.

\*Sec. 6. The sum of \$1,250,000 is appropriated from the general fund for payment as a grant to the City of Seward for ferry dock repair.

\*Sec. 7. The sum of \$1,250,000 is appropriated from the general fund for payment as a grant to the City of Cordova for marine facilities.

SB 158 Sectional Analysis

<u>Section(s)</u>	<u>AGENCY</u>	<u>TITLE AND DESCRIPTION</u>	<u>AMOUNT</u>
1	Office of the Governor	FY 83 Shortfall - Division of Elections - To cover deficit in Division of Elections.	274.0
2, 40	Office of the Governor	OMB Office Space - Funds will be needed to implement redesign of Court Building office space to accommodate consolidation of OMB activities.	350.0
3	Administration	Public Defender cost overruns - contracts for Kodiak and Dillingham were underfunded by \$93,000. A trial in Fairbanks is expected to cost an additional \$40,000 in Travel and expert witnesses.	133.0
4	Revenue	ABC Control Board FY 83 Shortfalls - Would allow funding of under budgeting in personal services and contractual services.	20.0
5	Revenue	Child Support - Replacement of Lost Federal Funding - Fund the balance of the 130.7 lost federal funds which were not replaced by the Federal Budget Impact Fund. FBIF funded 65.0 of the 130.7 requested.	65.7
6	Education	Debt Retirement Reimbursement - Additional funds are requested to fund approximately 50% of the increase resulting from changes by Ch 92/82 which reduced the repayment waiting period from two years to one year and increased the reimbursement rate from 80% to 90%.	6,500.0
7	Education	Funds for Alaska School Activities Assoc. - Project provides funds for high school student travel for such activities as athletic and musical events.	300.0

SB 158 Sectional Analysis

<u>Section(s)</u>	<u>AGENCY</u>	<u>TITLE AND DESCRIPTION</u>	<u>AMOUNT</u>
8	Education	Capital Project Expenses - The Department of Education will use these funds to pay for miscellaneous capital project expenses not directly related to current appropriations (e.g., site surveys, long term leases, title search fees, legal fees). This practice will be in keeping with recent legal advice from AG's office.	90.7
9	Health and Social Services	API Emergency Security Positions - Security positions (17 PFT, 1 PPT) added in to accomodate for patient overcrowding above licensed capacity - response to API Task Force recommendations.	305.9
10	Health and Social Services	Establishing the Department of Corrections - For expense incurred in transferring the Division of Corrections from the Department of Health and Social Services.	250.0
11	Natural Resources	FY 79 Billing Due Soil Conservation - To pay balance owed U.S. Department of Agriculture for funds given State to conduct soil and range inventories during 1979. These funds were never utilized and thus lapsed and are therefore owed to the Department of Agriculture. This matter has been referred to the U.S. Attorney General's Office for legal action.	70.9
12	Natural Resources	Charges to Department of Administration for the Frontier Building Move - To cover costs associated with DNR's moving from the MacKay Building to the Frontier Building.	150.0
13	Natural Resources	University of Alaska Settlement Agreement - Funding for the 4,200.0 settlement between UA, DNR, Revenue, Administration, and Board of Regents.	4,200.0

SB 158 Sectional Analysis

<u>Section(s)</u>	<u>AGENCY</u>	<u>TITLE AND DESCRIPTION</u>	<u>AMOUNT</u>
14	Natural Resources	Contractual services for hard-rock mining - The Division of Minerals & Energy Management will provide technical assistance to mining operators in developing economically and environmentally sound management and mining practices for placer mining and help reduce the large backlog of unrecorded new mining claims located on State lands.	250.0
15	Public Safety	Underfunding Violent Crimes Compensation Grants - Funding to compensate victims of violent crimes. Projections indicate sufficient funding is not available to pay the increased number of claims now pending.	210.0
16	Public Safety	Supervisors Grievance Settlement - To provide sufficient funding to cover retroactive pay increases in accordance with two arbitrated settlements.	130.2
17	Public Safety	Health Insurance Increases and Underfunding - Funding to pay unanticipated increases in health insurance coverage. Failure to approve funding will require vacant positions to be kept unfilled for longer periods of time, and reduce the overall personnel strength of troopers and fish and wildlife protection officers.	138.0
18	Administration	Miscellaneous Claims - Stale Dated Warrants	3.9
18	Education	Miscellaneous Claims - to pay for bills received which are for goods and services over two years old.	7.0
18	Health and Social Services	Miscellaneous claims to fund bills which are over two years old and have not been paid.	118.0

SB 158 Sectional Analysis

<u>Section(s)</u>	<u>AGENCY</u>	<u>TITLE AND DESCRIPTION</u>	<u>AMOUNT</u>
18	Commerce	Miscellaneous Claims - To fund late billing over two years old for services provided to Division of Tourism	5.6
18	Fish and Game	Offset Project Overexpenditure - Three capital projects have overspent their budgets by a total of 3,900.	3.9
18	Fish and Game	Miscellaneous Claims - To cover billings received late from the Anchorage Times. Services provided are over 2 years old.	0.6
18	DOT/PF	FY 82 Maintenance and Operations Overexpenditure - To funding outstanding obligations, for vehicle equipment charges.	1,097.3
19, 20	Governor	Reduce FY 83 Operating Budget for Council on Economic Policy survey of economic and demographic information.	(350.0)
21	Governor	Reduce FY 83 Operating Budget excess funds for Capital Site Planning Commission	(300.0)
22, 23	Education	Reduce amount in FY 83 Operating Budget for School Finance Study which is included in FY 84 Operating Budget	(135.3)
24	Revenue	Reduce income tax refunds appropriated in Ch 3/SLA 80 in excess of needs	(7,000.0)
25, 26	Health and Social Services	Reduce FY 83 Operating Budget for Public Assistance Services in excess of projected needs: AFDC (3060.2 GF; 3060.2 Fed); and General Relief (200.0 GF)	(3260.2)

SB 158 Sectional Analysis

<u>Section(s)</u>	<u>AGENCY</u>	<u>TITLE AND DESCRIPTION</u>	<u>AMOUNT</u>
27	Health and Social Services	Reduce FY 83 Operating Budget fiscal note (SB 842) for Permanent Fund Dividend "Hold Harmless" program	(1901.2)
28	Labor	Repeal FY 83 fiscal note (HB 174) appropriated in error. HB 174 in its final form had no fiscal impact on the Department of Labor	(159.0)
29	Natural Resources	Reduce fiscal note to Ch 113/SLA 82 (HB31) appropriated in excess of needs. This appropriation was continued into FY 83 by Ch 141/82, Sec. 266.	(597.0)
30, 31	Courts	Reduce FY 83 Operating Budget by ASHA bond payments also budgeted by Department of Administration	(972.0)
32, 33	DOT/PF	Marine Transportation Language Change - The requested language change will allow funds appropriated for "Repower M/V Columbia" to be used to repower all Southeastern mainline vessels of state ferry fleet.	0
34	University, DOT/PF	Language Change, CH 139/82 - Appropriations for capital projects in sections 15 and 16 are not specifically identified as capital projects in sections 28 of the same bill. The requested change will remove the ambiguity.	0
35	Labor	Change lapse date for appropriation made in Section 37, Chapter 101, SLA 82 to June 30, 1985. The appropriation was made to pay for claims and costs under the judgement of the superior court relating to a civil case involving Worker's Compensation.	0

SB 158 Sectional Analysis

<u>Section(s)</u>	<u>AGENCY</u>	<u>TITLE AND DESCRIPTION</u>	<u>AMOUNT</u>
36	C&RA	<p>The Department of Community and Regional Affairs would like to extend the lapse date for \$1,000.0 for the State Training Program (S.T.P.) funding (CH 101 Sec 79, p. 59, l. 19). This is a State funded pilot program. Because this was a new program for the department, previous department leaders required the development of regulations prior to program start-up (they felt this was necessary even though the program has no statutory authority). The delay in start-up was due principally to the development of regulations. Request for proposals have been issued, and contract selection should take place the week of 3/14 or 3/21. No doubt these contracts will extend into FY 84 and some groups have proposed starting the projects in September in conjunction with the fall school semester. C&amp;RA proposed that 824.5 for the S.T.P. be eliminated from the FY 84 budget. This was based on the late start-up of the program and the anticipation of requesting continuing authority of the current year's appropriation through June 1984.</p>	0
37	Commerce	<p>The Department of Commerce and Economic Development, Ag Action Council, requests extension of the lapse date for the Point MacKenzie Agricultural Development Project (SLA 80, CH 90) from June 30, 1983 to June 30, 1986. Due to a lawsuit, 29 of the 31 available parcels were not sold until September 1982. The vast majority of funds remaining are for clearing loans, which are only now being made.</p>	0

SB 158 Sectional Analysis

<u>Section(s)</u>	<u>AGENCY</u>	<u>TITLE AND DESCRIPTION</u>	<u>AMOUNT</u>
38, 39	Health and Social Services	Language amendment to change nature of appropriations by SB 190, SB 535 and SB 611 from operating to capital. These appropriations were made in the fiscal note section of CH 139/82, and were inadvertently made to the operating budget.	0

CS SB 158 (HESS) - SECTIONAL ANALYSIS

- SECTION 1 REMOVES \$300,000 IN EXCESS FUNDS FROM THE NEW CAPITOL SITE PLANNING COMMISSION APPROPRIATED IN 1982.
- SECTION 2 REMOVES \$135,300 IN EXCESS FUNDS FROM EDUCATION PROGRAM ADMINISTRATION APPROPRIATED IN 1982.
- SECTION 3 COMPLIMENTS SECTION 2 - DEPART. OF EDUCATION.
- SECTION 4 REMOVES \$12 MILLION FROM THE DEPARTMENT OF REVENUE APPROPRIATED IN 1980 FOR TAX REFUNDS.
- SECTION 5 REMOVES \$1,901,200 IN EXCESS FUNDS FROM THE PERMANENT FUND HOLDHARMLESS IN DH&SS (GENERAL FUNDS).
- SECTION 6 REMOVES \$159,000 INADVERTENTLY APPROPRIATED TO THE DEPART. OF LABOR WITH HB 174 IN 1982.
- SECTION 7 REMOVES \$597,000 IN EXCESS FUNDS APPROPRIATED IN HB 31 IN 1981.
- SECTION 8-9 REMOVES \$972,000 IN EXCESS FUNDS APPROPRIATED TO THE COURT SYSTEM IN 1982.
- SECTION 10 \$350,000 APPROPRIATED TO THE OFFICE OF MANAGEMENT AND BUDGET FOR OFFICE REORGANIZATION.
- SECTION 11 \$133,000 APPROPRIATED TO THE PUBLIC DEFENDER'S OFFICE FOR 1983 cost overruns - UNDERFUNDED CONTRACTS IN KODIAK AND DILLINGHAM, EXCESSIVE TRIAL COSTS IN FBKS.
- SECTION 12 \$20,000 APPROPRIATED TO THE ABC BOARD FOR 1983 SHORTFALLS IN PERSONAL AND CONTRACTUAL SERVICES.
- SECTION 13 \$13,561.600 APPROPRIATED FOR 1983 SUPPORT FOR SCHOOL DEBT RETIREMENT.
- SECTION 14 \$300,000 APPROPRIATED TO THE SCHOOL ATHLETIC FUND FOR 1983 STUDENT TRAVEL TO ATHLETIC AND MUSIC EVENTS.
- SECTION 15 \$305,900 APPROPRIATED TO DH&SS FOR EMERGENCY SECURITY POSITIONS (17PFT, 1PPT) AT A.P.I. BECAUSE OF OVERCROWDED CONDITIONS THREATENING LICENSURE.
- SECTION 16 \$205,900 APPROPRIATED FOR THE ESTABLISHMENT OF THE NEW DEPARTMENT OF CORRECTIONS - MAY 1 STARTING DATE.
- SECTION 17 \$70,900 APPROPRIATED TO DNR TO PAY BALANCE OWED TO THE FEDERAL GOVERNMENT SINCE 1979 FOR CONDUCTING SOIL AND RANGE INVENTORIES.
- SECTION 18 \$150,000 APPROPRIATED TO DNR FOR COSTS OF MOVING FROM THE MACKAY BUILDING CHARGED TO THE DEPARTMENT OF ADMINISTRATION.

- SECTION 19 \$210,000 APPROPRIATED TO PUBLIC SAFETY FOR 1983 UNDERFUNDING OF THE VIOLENT CRIMES COMPENSATION BOARD.
- SECTION 20 \$130,200 APPROPRIATED TO PUBLIC SAFETY TO COVER RETROACTIVE PAY INCREASES IN ACCORDANCE WITH TWO ARBITRATED SETTLEMENTS.
- SECTION 21 \$138,000 APPROPRIATED TO PUBLIC SAFETY TO PAY 1983 HEALTH INSURANCE INCREASES.
- SECTION 22 \$139,000 APPROPRIATED FOR STALE-DATED WARRANTS.
- SECTION 23 \$350,000 APPROPRIATED TO COMMERCE AND ECONOMIC DEVELOPMENT FOR FY 82 LIVESTOCK FACILITY LOANS.
- SECTION 24-25 LANGUAGE CHANGE TO ALLOW 1982 APPROPRIATED FUNDS FOR REPOWERING M/V COLUMBIA TO BE USED FOR OTHER VESSELS ALSO.
- SECTION 26 PROVIDES THAT FUNDS APPROPRIATED IN SECTIONS 15-16 DO NOT LAPSE.
- SECTION 27 CHANGE LAPSE DATE FOR APPROPRIATIONS MADE TO PAY CLAIMS AND COSTS ASSOCIATED WITH A SUPERIOR COURT CASE INVOLVING WORKER'S COMPENSATION.
- SECTION 28 EXTENDS THE LAPSE DATE FOR AN APPROPRIATION FOR THE STATE TRAINING PROGRAM IN C&RA BECAUSE OF START UP DELAYS CAUSED BY THE DEVELOPMENT OF REGULATIONS.
- SECTION 29 EXTENDS LAPSE DATE FOR THE POINT MACKENZIE AGRICULTURAL DEVELOPMENT PROJECT, BECAUSE A LAWSUIT DELAYED SALES OF AVAILABLE PARCELS.
- SECTION 30-31 CHANGES THE NATURE OF APPROPRIATIONS BY SB 190, SB 535 AND SB 611 (1982) FROM OPERATING TO CAPITAL.
- SECTION 32-33 REMOVES \$3,260,200 FROM AFDC AND GENERAL RELIEF  
34 IN EXCESS FUNDS IN DH&SS.
- SECTION 35-36 REAPPROPRIATES THE FUNDS FROM SECTIONS 32-34 TO THE CATASTROPHIC ILLNESS PROGRAM IN DH&SS.
- SECTION 37 LANGUAGE CHANGE TO ALLOW FUNDS APPROPRIATED TO THE MOSQUITO LAKE SCHOOL (HAINES) TO BE USED ALSO FOR THE CONSTRUCTION OF TEACHER HOUSING AND RENOVATIONS. THESE ARE EXCESS FUNDS.
- SECTION 38 EXTENDS THE LAPSE DATE FOR FUNDS APPROPRIATED TO THE COUNCIL ON ECONOMIC POLICY FOR A SURVEY OF ECONOMIC AND DEMOGRAPHIC INFORMATION, AND FOR FUNDS APPROPRIATED TO SOCIAL SERVICES IN DH&SS TO CREATE A CHILD ABUSE SOCIAL WORKER POSITION IN PRINCE OF WALES ISLAND AND A CHILD ABUSE TRAINING PROGRAM IN SOUTHEAST ALASKA.

- SECTION 39 LANGUAGE CHANGE TO ALLOW FUNDS APPROPRIATED IN 1982 TO GLENALLEN FOR BULK FUEL STORAGE TO BE USED FOR FIREFIGHTING EQUIPMENT.
- SECTION 40 LANGUAGE CHANGE TO ALLOW FUNDS APPROPRIATED IN 1982 TO COPPER CENTER DAY CARE TO BE USED FOR THE COMMUNITY CENTER.
- SECTION 41 REMOVES \$1.5 MILLION IN EXCESS FUNDS APPROPRIATED TO DELTA II EXPANSION IN 1982.
- SECTION 42 APPROPRIATES \$1,350,000 TO NENANA FOR PHASE II CONSTRUCTION OF THE CITY BRIDGE.
- SECTION 43 APPROPRIATES \$250,000 TO DNR FOR SURVEY AND DISPOSAL IN THE NENANA-TOTCHAKET AGRICULTURAL PROJECT.
- SECTION 44 REPEALS SECTION ALLOCATING \$1,622,800 TO THE NENANA-TOTCHAKET AGRICULTURAL DEVELOPMENT PROJECT.
- SECTION 45 APPROPRIATES \$1,622,800 TO NENANA FOR CONSTRUCTION OF THREE BRIDGE PROJECTS.
- SECTION 46 LANGUAGE CHANGE TO ALLOW FUNDS APPROPRIATED FOR THE COPPER CENTER L.I.O. TO BE USED FOR THE GLENALLEN L.I.O.
- SECTION 47 CHANGES THE NATURE OF AN APPROPRIATION TO THE DEPART. OF COMMERCE AND ECONOMIC DEVELOPMENT FOR A WEATHERIZATION PROGRAM FROM OPERATING TO CAPITAL.
- SECTION 48 LANGUAGE CHANGE TO ALLOW FUNDS APPROPRIATED TO THE FAIRVIEW LIBRARY/MUSIC ROOM TO BE USED FOR THE REHABILITATION OF THE COMMUNITY CENTER.
- SECTION 49 REMOVES \$5,000,000 IN EXCESS FUNDS FROM THE DEPART. OF COMMERCE AND ECONOMIC DEVELOPMENT FOR ENERGY AUDITS, GRANTS AND CONSERVATION.
- SECTION 50 \$3,000,000 IS APPROPRIATED TO THE MUNICIPALITY OF ANCHORAGE FOR COMMUNITY SERVICES FORMERLY FUNDED BY SB 168 MONIES.
- SECTION 51 \$600,000 IS APPROPRIATED TO THE MUNICIPALITY OF ANCHORAGE FOR CONSTRUCTION OF A SENSORY IMPAIRMENT CENTER IN CONJUNCTION WITH THE ALASKA TREATMENT CENTER.
- SECTION 52 \$948,000 IS APPROPRIATED TO THE MUNICIPALITY OF ANCHORAGE FOR PHASE I CONSTRUCTION OF THE EARLY CHILDHOOD/HEADSTART FACILITY.
- SECTION 53 \$85,000 IS APPROPRIATED TO THE DEPARTMENT OF ADMIN. FOR RELOCATION OF OFFICES IN PREPARATION FOR THE CONSTRUCTION OF THE NEW STATE OFFICE BUILDING.

- SECTION 54        \$72,000 IS APPROPRIATED TO THE MUNICIPALITY OF ANCHORAGE FOR THE NEIGHBORHOOD HEALTH CENTER'S DENTAL PROJECT.
- SECTION 55        \$105,000 IS APPROPRIATED TO THE MUNICIPALITY OF ANCHORAGE FOR THE ALPINE ALTERNATIVES' OUTDOOR SKILLS TRAINING FOR THE HANDICAPPED.
- SECTION 56        \$60,000 IS APPROPRIATED TO THE MUNICIPALITY OF ANCHORAGE FOR THE OLDER PERSONS ACTION GROUP.
- SECTION 57        \$130,000 IS APPROPRIATED TO THE MUNICIPALITY OF ANCHORAGE FOR THE ALASKA CONSUMER ADVOCACY PROGRAM.
- SECTION 58-59     REPEALS UNUSABLE FUNDS APPROPRIATED TO THE MUNICIPALITY OF ANCHORAGE IN 1980 (\$218,262). (PARK IMPROVEMENTS)
- SECTION 60        REMOVES \$38,262 IN EXCESS FUNDS FROM A 1980 APPROPRIATION FOR LANDSCAPING ON PROPERTY NOW IN POSSESSION OF THE ALASKA RAILROAD.
- SECTION 61        \$218,262 IS APPROPRIATED TO THE MUNICIPALITY OF ANCHORAGE FOR AN UNDERGROUND POWER LINE ON BLUFF ROAD.
- SECTION 62&65    LAPSE DATES.
- SECTION 63        SECTION 42 IS A CAPITAL PROJECT.
- SECTION 64        APPROPRIATION DISBURSAL REQUIREMENTS.
- SECTION 66        EFFECTIVE DATE.

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

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## OFFICE OF THE GOVERNOR

POUCH AM  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3568

### OFFICE OF MANAGEMENT AND BUDGET DIVISION OF BUDGET REVIEW

April 26, 1983

The Honorable Joe Josephson  
Chairman, Senate Health, Education  
and Social Services Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Josephson:

The following additional information regarding SB 158 is provided per the Committee's request.

#### Section 6

Enclosed is the Attorney General's opinion stating that local school debt service reimbursements by the State are exempt from the constitutional spending limit (pages 1 and 12-14).

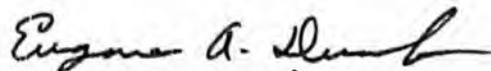
#### Section 17

There is no special insurance unique to Public Safety employees.

#### Section 25

Enclosed is additional information regarding the Catastrophic Illness Program.

Sincerely,



Eugene A. Dusek  
Associate Director

cfc

Enclosures

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

February 7, 1983

BUDGET REVIEW

Gene Dusek, Director of Budget  
Office of Management & Budget  
Pouch AM  
Juneau, AK 99811

FEB 8 1983

MANAGEMENT & BUDGET

Re: Appropriations Office of Management & Budget questions  
Our file: 366-374-83

Dear Mr. Dusek:

You have asked for our opinion concerning issues relating to the appropriation limit imposed by Alaska Constitution, article IX, section 16. These issues are as follows:

(1) Are appropriations to reimburse a municipality for payment of the principal and interest on general obligation school construction bonds subject to the appropriation limit? We believe they are not.

(2) If the permanent fund dividend law (AS 43.23) is amended or repealed and another plan for the distribution of permanent fund income is enacted, will appropriations to finance the new distribution program be included in the appropriation limit or will those appropriations be outside the limit? Generally, we believe that other distribution plans could qualify as dividends. However, certain limitations should be observed to make sure that the new plan satisfies the intent of the appropriation limit.

(3) How will the appropriation limit be implemented if

anticipated state revenues are less than the limit for a fiscal year? We assume that the appropriation limit will be applied with common sense to empower the legislature to act without regard to allocations imposed by the appropriation limit when economic conditions deplete the state treasury.

(4) How will multi-year appropriations be counted for purposes of the appropriation limit? We believe a multi-year appropriation will be counted against the appropriation limit for the first year in which it could be expended.

(5) What is the definition of "capital project" as that term is used in the appropriation limit? There is some history which supports a liberal interpretation of the term "capital project."

#### I. BACKGROUND

The appropriation limit, Alaska Const. art. IX, sec. 16, was drafted during a period of anticipated high revenue yields from oil and gas production. In June 1981, the Alaska Department of Revenue forecast that the state would earn approximately \$4,895,300,000 during FY 82. Revenue Sources, Alaska Department of Revenue (June 1981). That forecast did not include the revenue dedicated to the Alaska permanent fund under AS 37.-13.010. The revenue actually earned by the state during FY 82, less the permanent fund contribution, was \$4,108,400,000. Reve-

nue Sources, Alaska Department of Revenue (Jan. 1983). The legislature had exhibited a proclivity for appropriating all available revenue and more. 1/ Former Governor Jay S. Hammond introduced SJR 4 during the first session of the Twelfth Alaska Legislature. However, the legislature failed to enact a version of SJR 4 during the first regular session and on June 25, 1981, Governor Hammond called a special session of the legislature to consider SJR 4. In his address to the legislature, Governor Hammond cited the following circumstances which required the enactment of SJR 4:

(1) the FY 82 operating budget increased 32 percent over the FY 81 operating budget;

(2) the FY 82 capital budget increased 127 percent over the FY 81 capital budget; and,

(3) for FY 82, the legislature appropriated an amount equal to 59 percent of the total spent for capital projects since statehood. 1981 S. Jour., FSS Jour. Supp. No. 1, p. 3.

A second free conference committee (FCC) initially appointed during the regular session met to continue consideration of SJR 4 during the special session. 1981 S. Jour., p. 1744. A

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1/ The \$1.8 billion contribution to the Alaska permanent fund (sec. 2, ch. 61, SLA 1981 as amended by sec. 68, ch. 92, SLA 1981 and sec. 16, ch. 101, SLA 1982) is a continuing operating appropriation which literally causes total unobligated appropriations to exceed available state revenues for each fiscal year since enactment.

transcript of the open meetings of the FCC exists and forms a part of the history of the appropriation amendment (the transcript). However, it is evident from review of the transcript that other discussions concerning the intent of the amendment were conducted outside of open committee meetings. While the transcript is helpful, it presents only a partial record of the deliberations of the drafters of the amendment.

The FCC purported to adopt a letter of intent to accompany its report to the house and senate. 1981 S. Jour., FSS, p. 5. However, the letter of intent is not set out in the journal. A search of the bill files of the Department of Law yielded a copy of the missing letter of intent. See Ex. 1.

The campaigns for and against adoption of the appropriation limit began in September of 1982. The Anchorage Daily News criticized the proposed amendment for the following reasons:

(1) the ceiling is too high, revenues will exceed the limit only once before the year 2000; and

(2) the one-third reservation for capital projects and loan appropriations was included because the legislature "failed to make the distinction between a wise public agenda -- on which capital projects and loans surely would appear -- and an effectively timeless state constitution -- in which no such spending demands should be dictated.

Anchorage Daily News, Sept. 3, 1982, at A14, "opinion." The

Daily News based its opinion concerning revenue forecasts on a report made public by the legislative finance division of the Legislative Budget and Audit Committee. Anchorage Daily News, Sept. 2, 1982, at 1. On September 17, 1982, the Daily News urged Governor Hammond to oppose the adoption of the appropriation limit. The Anchorage Times basically took no position on the amendment. However, on October 19, 1982, the Times reported the results of a poll sponsored by supporters of the amendment. The poll, conducted the week of September 16-23, 1982, showed that the amendment was recognized and favored by the public as a "spending limit." The pollsters asked if the respondents had heard of the proposed amendment to the state constitution which sets a limit on increases on state appropriations. By a three-to-one margin, respondents said they were not familiar with the amendment when it was described as an "appropriation limit." Anchorage Times, Oct. 19, 1982, at A-4. On October 26, 1982, the Juneau Empire editorialized in favor of adoption of the amendment. Juneau Empire, Oct. 26, 1982, at 4.

During the week of October 24, 1982, the major dailies of the state published articles on the amendment. Governor Hammond received coverage in most of those stories by saying "It [the adoption of the appropriation limit] may be our last chance to control the juggernaut which otherwise will likely crush us into bankruptcy." Anchorage Daily News, Oct. 29, 1982, at B3.

On Sunday, October 31, 1982, the Daily News in its forum section, published an article by Governor Hammond in which he again strongly advocated adoption of the amendment because revenue projections and the growing vulnerability of the permanent fund compelled him to plead for the support of the people. Anchorage Daily News, Oct. 31, 1982, at K3. On the preceding Friday, the Daily News quoted Governor Hammond as follows: "Don't let anyone tell you that passage of Proposition 4 won't limit spending." Under recently revised revenue estimates, passage of the ballot issue would bar the legislature from appropriating between \$80 million and \$380 million in fiscal 1984 alone. Anchorage Daily News, Oct. 29, 1982, at B3.

At the 1982 general election, the voters approved the adoption of SJR 4 by a vote of 110,669 for the amendment and 70,831 opposed to the amendment. State of Alaska Official Returns by Election Precinct General Election Nov. 2, 1982, Div. of Elections, Office of the Governor.

## II. EXCEPTIONS FROM THE LIMIT

The appropriation limit contains seven express exceptions. Five of those exceptions are for appropriations which are completely outside the limit and do not require voter approval. They include:

- (1) an appropriation for Alaska permanent fund divi-

dends;

(2) an appropriation of revenue bond proceeds;

(3) an appropriation to pay principal and interest on general obligation bonds;

(4) an appropriation of money received from nonstate sources in trust for a specific purpose, including revenues of a public corporation that issues revenue bonds; and

(5) an appropriation to meet a state of disaster declared by the governor.

You have requested our interpretation of exceptions (1) and (3) set out above.

A. Alaska Permanent Fund Dividend Exception

The appropriation limit provides: "Except for appropriations for Alaska permanent fund dividends ... appropriations from the state treasury made for a fiscal year shall not exceed \$2,500,000,000...." A question obviously arises as to whether "Alaska permanent fund dividends" means only those cash payments provided to individuals under AS 43.23 or if the word "dividend" encompasses other concepts for the distribution of income earned by the Alaska permanent fund.

We believe the answer to your question concerning appropriations for permanent fund dividends depends on whether the exceptions will be construed strictly or liberally. Usually,

provisions in a state constitution are construed liberally using the same rules of construction prescribed for other laws with regard given to the broader object and scope of the constitution as a charter of popular government. Eghert v. Dunseith, 24 N.W.2d 907 (N.D. 1946); 168 A.L.R. 621. Professor Sutherland explains the modern view for construing express exceptions as follows:

The older rule strictly interpreted both exceptions and provisos but today the prevailing view favors determining the effects of such provisions according to the usual criteria of decision applicable to other kinds of provisions as well without the use of any artificial presumptions to the effect that qualifying language should be strictly construed.

SUTHERLAND STATUTORY CONSTRUCTION § 47.11 (4th ed. 1974)(footnotes omitted). The FCC did not express an intent to limit this exception to only appropriations to finance cash payments to individuals under AS 43.23.

The appropriation limit must be interpreted consistently with the permanent fund amendment contained in article IX, section 15. Section 15 provides that the legislature may dispose of the income of the Alaska permanent fund "as provided by law." Each legislature may reexamine existing law and enact different laws providing for the use of income earned by the Alaska permanent fund. If section 16 were interpreted so that the exception to permanent fund dividends applied only to appropriations to finance cash dividends under AS 43.23, the legislature would essentially be denied the flexibility to adjust to changing philoso-

phies concerning the propriety of making cash payments directly to residents which section 15 expressly reserves to it. 2/ In interpreting and applying the constitution, it must be remembered that the constitution is not a lifeless or static instrument whose interpretation is confined to conditions and outlooks which prevailed at the time of its adoption. Yakus v. United States, 321 U.S. 414 (1944); Warwick v. State, 548 P.2d 384 (Alaska 1976).

The word "dividend" has no precise legal meaning. Trustees of University v. North Carolina R. Co., 13 WORDS AND PHRASES 107 (Permanent ed.); 22 Am. Rep. 671. Webster defines "dividend" as follows: "an individual share of something distributed among a number of recipients." We are not aware of any legal principle which would preclude the characterization of other distribution programs as "dividends." Rather, the words used

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2/ The Thirteenth Legislature may reject direct cash distribution in favor of a plan which it determines will promote public purposes more effectively. During the period of consideration and adoption of the appropriation limit, the permanent fund dividend law was undergoing considerable scrutiny and change by both the legislature and the courts. The legislature adopted the proposed appropriation limit amendment on July 15, 1981. At that time the question of the constitutionality of the permanent fund dividend program as it was then structured was on appeal to the United States Supreme Court. On June 14, 1982, the United States Supreme Court issued an opinion which found the method established for determining the amount of dividends under that program void because the method promoted discrimination based on length of residence in the state. On August 13, 1982, amendments to the dividend law took effect. The people were undoubtedly aware that the dividend law in effect on election day in 1982 was not chiseled in marble.

by the drafters of the amendment afford broad latitude to the legislature to enact new distribution programs which will not be impaired by the appropriation limit.

It is well-settled law that a provision of a state's constitution must receive a liberal, practical construction to meet changed conditions and growing needs of the people. County of Alameda v. Sweeney, 312 P.2d 419, 424 (Cal. 1957). Under the permanent fund amendment, the discretion granted to the legislature to enact, amend, or repeal the present dividend program under AS 43.23 to meet the growing needs of the people is unfettered. However, the operation of exceptions from the appropriation limit must be interpreted consistent with the intent of the framers of the organic law and of the people adopting it. State v. Lewis, 559 P.2d 630, 637 (Alaska 1977).

One important consideration should be carefully observed. The Alaska Supreme Court has found that the purpose of the existing dividend program is to force the legislature to consider the reimposition of taxes when the decline of oil revenue encourages resort to permanent fund income to finance state government. Williams v. Zobel, 619 P.2d 448, 454 (Alaska 1981), rev'd 451 U.S. 905 (1982). The people can be expected to vigilantly protect their dividends by forcing the legislature to seek sources other than the permanent fund to finance state government. If a substitute distribution program accomplishes the same

purpose, it will more likely qualify under the exception in section 16 than if it fails to achieve that purpose. If the constituency benefitted by a dividend is narrow, the dividend may not be a dividend in the sense intended by the drafters of section 16 and the people who adopted it. Proposals soon to be considered by the legislature include replacing the existing distribution to all residents with a distribution of part of the permanent fund income to municipalities and as a substitute for the existing longevity bonus, and use of a part of the income to finance large capital projects.

A vast majority of the population of the state resides in or is served by municipal governments. It is also a fact that we all seek security for our "golden years." The constituents of these proposals seem broad enough to satisfy the purpose of the current dividend law. The use of permanent fund income to finance large capital projects presents a closer question. The character of each project must be considered to determine if it serves a state public purpose, rather than a local special purpose. Additionally, if the project is viewed as merely an alternate way of financing state government operations, the basic intent of the dividend law might not be served.

We cannot advise with certainty whether the financing of large capital projects with permanent fund income would constitute a dividend of the Alaska permanent fund for purposes of

the appropriation limit. Some may argue that the benefits provided by "public works" projects are too localized to approximate the benefits provided by the existing dividend law. However, in State v. Lewis, 559 P.2d 630 (Alaska 1977), the Alaska Supreme Court decided that "[l]egislation need not operate evenly in all parts of the state to avoid being classified as local or special." Lewis at 643. A definite answer will come only when the courts interpret article IX, section 16 of the Alaska Constitution. However, we believe that if the legislature enacts a distribution program which is consistent with the intent of the permanent fund dividend law, any appropriation to implement that program will be exempt from the appropriation limit.

B. Appropriations Required to Pay the Principal and Interest on General Obligation Bonds

Under AS 43.18.100 -- 43.18.135 the state, subject to available appropriations, reimburses municipalities for the payment of a percentage of principal and interest to retire general obligation bonds issued by the municipality to finance school construction costs. Although they have been amended from time to time, these statutes have been in effect since 1971. You have asked whether appropriations to retire municipal general obligation debt are within the exception stated to the appropriation limit.

The exception reads as follows: "Except for ... appro-

priations required to pay the principal and interest on general obligation bonds...." The wording of the exception does not specify whether the bonds must be issued by the state to qualify. Later in section 16, the drafters carefully identified "appropriations of money received from a nonstate source...." Since the drafters could easily have expressly limited this exception to state general obligation bonds, an implication can be drawn that a strict construction limiting the exception to state general obligation bonds was not intended.

The purpose of the exception recognizes that appropriations to retire general obligation bonds may be to the state's "great advantage." Governor's transmittal letter, 1981 FSS S. Jour., p. 16. Presumably the advantage accrues from the state's enhanced credit rating which results in lower debt service charges for subsequent bond issues. It is probable that the existence of the school construction debt assistance provisions of AS 43.18 have the same effect upon the bond rating assigned to municipalities. The identical purpose is achieved by appropriations made to finance the reimbursement program. Less state assistance will be necessary in the future if local bond ratings remain favorable.

There are some considerations which weigh against this construction. Debt service for general obligation bonds is financed by a continuing appropriation. AS 37.15.012. General

obligation bonds are debts of the state secured by contracts (trust indentures); the impairment of contracts is prohibited by the state and federal constitutions. The reimbursement program under AS 43.18 does not transform municipal general obligation bonds into debts of the state. AS 43.18.130(a). However, the financial burden imposed on municipalities, if their local tax effort were increased to compensate for the loss of assistance under AS 43.18, could be devastating to the local taxpayer. According to the Department of Education, for fiscal year 1984 the estimated total entitlement for school debt retirement is \$36,900,000. This total is estimated to increase to \$44,300,000 by fiscal year 1988.

Accordingly, we believe that appropriations to retire municipal general obligation school bond indebtedness under AS 43.18 are "required" and qualify as an exception to the spending limit. We believe that the appropriation for school bond indebtedness can be represented as a moral obligation of the state for the following reasons:

- (1) the appropriation is made under a statute of general application;
- (2) the statute has been in effect since 1971; and
- (3) the reimbursement program is heavily relied upon by municipalities when they establish the local tax effort necessary to support local bonded indebtedness.

### III. REVENUE SHORTFALL

You have also asked how to interpret the appropriation limit if the amount of state revenues subject to the limit is less than the amount determined to be the limit for a fiscal year, as provided in section 16. You wish to know specifically how the allocations within the limit for operating expenses and capital projects would be interpreted. As we have indicated, section 16 imposes an appropriation limit rather than a spending limit. We have earlier advised that the legislature may make appropriations which exceed available revenues. 1981 Inf. Op. Att'y Gen. (June 24; J77-159-81). However, obligations may not be paid under those appropriations unless there is enough surplus money available in the treasury.

Theoretically, the amount of anticipated state revenue should have no effect on the operation of the appropriation limit. However, under AS 37.07.020(c), the governor's proposed budget may not exceed estimated revenues for the succeeding fiscal year. Also, the amount of surplus revenues anticipated to be received by the state was an issue hotly publicly debated before adoption of section 16. The newspaper articles written about the appropriation limit before the election commonly referred to the amendment as a "spending limit." These articles were undoubtedly instrumental in forming the voters' understanding of the effect of the proposed amendment.

Section 16 provides, in part: "Within this limit, at least one-third shall be reserved for capital projects and loan appropriations." This wording is ambiguous when applied for a year in which revenue available for appropriations falls short of the adjusted limit for that year. Under those circumstances, it is not clear whether the reservation for capital projects and loan appropriations is calculated based on the total amount actually appropriated for that fiscal year (i.e., less than the limit) or on the limit amount (\$2.5 billion) for that fiscal year adjusted for population and inflation. Apparent ambiguities contained in the state constitution may be resolved by the contemporaneous construction by law or by the administrative agency charged with implementation of the provision. Amador Valley Joint Union High School District v. State Board of Equalization, 583 P.2d 1281 (Cal. 1978).

A review of the FCC transcript reveals no discussion of the intention of the drafters when they used the phrase "within this limit." Revenue projections at the time painted a rosy picture for the future. No history is available to indicate that the FCC even considered the effect of the amendment if the state suffers a sharp decline in revenue. Former Governor Hammond was clearly concerned by the possibility of a spendthrift legislature with an overflowing treasury at its disposal.

Under the circumstances, we believe it would be unwise

to blindly apply the allocations imposed by the appropriation limit when conditions impose an even more stringent limit than intended by the FCC. 3/ The appropriation limit drastically alters the most significant power of the legislature: the power to appropriate. The power to enact general law is largely nullified unless the money to finance enforcement or implementation of the law is appropriated. Consequently, we believe that an interpretation which restricts the legislature's power to respond to the needs of the state during unanticipated periods of revenue decline will not be endorsed by the courts. See State ex rei. Columbus v. Keterer, 189 N.E. 252 (Ohio 1934). Rather, we believe that the courts will recognize that the evil which the appropriation limit was designed to remedy does not exist when revenues are below the limit. Under those circumstances, a court would probably affirm an interpretation that restores the full lawmaking powers of the legislature to make appropriations in the best interests of the state. We believe the best way to resolve the ambiguity is to disregard the one-third allocation reserved for

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3/ The reservation for capital projects and loan appropriation effectively restricts appropriations to finance the operating budget without restricting the relative share for capital projects. The operating budget finances all manner of essential programs for the preservation of the public health, safety, and welfare. Some of these expenditures are for so-called entitlement programs (aid for families with dependent children, for example) which for fiscal year 1982 comprised 42 percent of the operating budget.

capital projects and loan appropriations when economic conditions impose a limit which is more restrictive than that set out in section 16. <sup>4/</sup> The literal language of the constitution may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers. Sturges v. Crowninshield, 17 U.S. 122, 202 (1819). Where the general welfare is involved, constitutional questions should be approached from the pragmatic, rather than from a legalistic point of view. State v. Board of Administration, 25 So. 2d 880 (Fla. 1946).

#### IV. ATTRIBUTION OF CAPITAL APPROPRIATION TO A FISCAL YEAR

Another question you have raised is how the words "appropriation ... made for a fiscal year" should be applied to appropriations for capital projects. AS 37.25.020 provides "An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years." This provision recognizes that capital projects often span more than one fiscal year before completion. The balance of the appropriation remains available in sub-

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<sup>4/</sup> Another possible interpretation would limit the operating budget allocation for a fiscal year to two-thirds of the total limit (\$2.5 billion) adjusted for inflation and population. This interpretation is consistent with our earlier observation that there may be no relationship between appropriations and revenue. However, even under this interpretation, in a fiscal year with depressed revenues, the one-third reservation for capital projects is meaningless.

sequent fiscal years and is carried forward to those succeeding fiscal years. According to the Department of Administration, as of June 30, 1982, the total of all "carry forward" capital appropriations was: approximately \$1,591,000,000, and the total of all "carry forward" operating appropriations was \$1,862,000,000.

The FCC debated the intent of the limit concerning this issue. Transcript at 47-55. It is clear that the FCC was aware that multi-year appropriations are made. There was an attempt by Representative Hugh Malone to amend the proposal so that a legislature could not appropriate for a fiscal year subsequent to the upcoming fiscal year. This amendment was not adopted. Senator Bill Ray observed that the intent of the amendment was to include only those appropriations which are expended during the fiscal year. According to Senator Ray, appropriations which remain unexpended at the end of a fiscal year should lapse. Transcript at 52. Representative Rick Halford interpreted the proposed amendment to make multi-year appropriations count against the limit each year because each succeeding legislature could amend or repeal these appropriations at will. During all of these discussions, no distinction was made between operating and capital appropriations. However, these comments probably referred only to multi-year operating appropriations. See Transcript at 65-66.

The debate on this issue discloses that the FCC was confused about the operation of carry forward appropriations.

They formulated the \$2.5 billion base by taking the fiscal year 1982 appropriation total and reducing that amount by \$60 million. Transcript at 2-5. However, 1982 appropriations were made based on forecasts of anticipated surplus for that fiscal year, reduced by expected expenditures for "carry forward" appropriations. We assume, therefore, that the drafters did not intend to count carry forward appropriations in the limit established for each fiscal year.

We believe that a commonsense way to interpret the appropriation limit, which is supported by past practice, is to count appropriations that are available for expenditure in a fiscal year only against the limit for the first fiscal year during which they could be completely expended. This should be done even if an unexpended balance is carried forward into the next fiscal year. That balance must be considered obligated for the purposes of the appropriation limit. Unexpended balances of a prior year appropriation should not be counted with the current year appropriations in complying with the limit for the current year. If the legislature provides that an appropriation may not be expended until a later fiscal year, the appropriation should be counted only against the limit for that later fiscal year.

V. DEFINITION OF THE TERM "CAPITAL PROJECT"

The appropriation limit amendment introduces the term

"capital project" to the glossary of words used in the Alaska Constitution. This new term causes some concern because a similar term, "capital improvement," is used in other sections of article IX setting out the general obligation bonding authority for local governments and the state. There are two Alaska Supreme Court cases which address the meaning of "capital improvement." See City of Juneau v. Hixon, 373 P.2d 743 (Alaska 1962); Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970). The supreme court did not adopt an all-inclusive definition of capital improvement in those cases. Rather, the court concluded that there was nothing in the history of municipal bonding in Alaska or in the minutes of the constitutional convention that indicates that the term "capital improvement" was intended to denote projects radically different than those for which municipalities had been permitted to incur bonded indebtedness in the past.

When former Governor Hammond first introduced SJR 4, the proposed amendment consistently used the term "capital improvement." It was not until the second FCC took up consideration of the proposal that the term capital project was used. Senator Ray defined capital projects to be "what the definitive judgment of a majority of the legislature determines they are." Transcript at 22. This was in response to an observation by Representative Malone that many appropriations designated as capital differ little from items set out in the operating budget. Tran-

script at 21. Former assistant attorney general Rodger W. Pegues explained to the FCC that "we're using the term capital project which pretty much means the capital budget - areas where you are dealing with capital investment or long-term financing and the bulk of your spending. That's a broader term than 'capital improvement.'" "

There appears to be support in the history for an interpretation of "capital project" which includes more objects of expenditure than "capital improvement," which traditionally has been limited to public works of a permanent nature. 5/ It is possible, though, that the two terms will be construed to have the same meaning. The supreme court left room for the term "capital improvements" to acquire new meanings to accommodate the changing activities of state government. However, the appropriation limit implies that a general obligation bond may be issued for capital projects. 6/ It is probable that a court would find that not all capital improvements may be characterized as capital

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5/ In recent years, opinions of the attorney general have somewhat broadened this interpretation to permit the use of bond proceeds to finance some unique activities under the Village Safe Water Act, see Inf. Op. Att'y Gen. (April 2; J-99-078-81); and to rehabilitate a leased jail facility. See Inf. Op. Att'y Gen. (Mar. 19; A66-398-78).

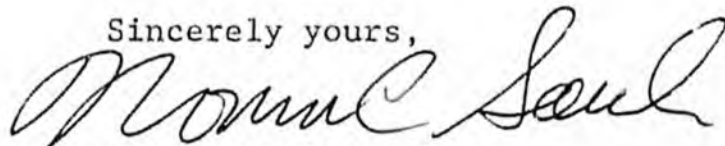
6/ Article IX, section 16 provides: "The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations in capital projects, whether of bond proceeds or otherwise, . . . ." (Emphasis added.)

projects. A distinguishing factor may be that the constitution requires some permanent thing of value to show for the public debt incurred. A more liberal construction may be warranted when public debt is not incurred.

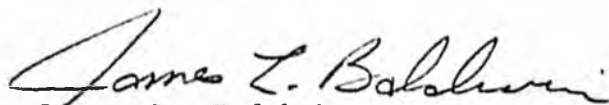
VI. CONCLUSION

The wording of the appropriation limit does not begin to live up to the high standards of clarity and simplicity adopted by the original framers of the Alaska Constitution. There are many who will regard this opinion as mere justification to exploit "loopholes" woven into the fabric of the amendment. However, we hope this opinion will provide the impetus to either adopt amendments to clarify the ambiguities noted or to enact legislation which interprets the amendment so that the ambiguities are avoided. We hope this opinion has answered your questions.

Sincerely yours,



Norman C. Gorsuch  
Attorney General



James L. Baldwin  
Assistant Attorney General

JLB:NCG:pjg

## LETTER OF INTENT

### 2nd Free Conference Committee on SJR 4

The basic problem faced by Alaska is runaway growth in spending for state government operations and for capital projects. This growth is generated by revenues from resources which are nonrenewable and finite. Some limitation is therefore essential. The constitutional amendment proposed by the 2nd Free Conference Committee will provide a realistic limitation and yet allow, by popular approval, for expenditures in excess of the limitation for capital projects and for contributions to the permanent fund. Those who favor such expenditures can have no reasonable objection to the voters determining which capital projects and contributions are worthwhile and which are not.

The term "capital project" is used rather than the term "capital improvement" in order to have a broader reach. Capital improvements are pretty much limited to public facilities having a more or less permanent nature. Highways, airports, buildings, and ferries are examples. Capital projects include capital improvements and also other expenditures which require a multi-year investment or otherwise tend to fall into the category of capital costs as opposed to day-to-day expenses. Computers, large-scale resources inventories, and high-cost special equipment and instruments for libraries, schools, and museums are some examples.

In addition to limiting the excess appropriations to capital projects and contributions to the permanent fund, the proposed amendment requires bills for capital projects to be confined to capital projects of the same type. This is somewhat more narrow than the single-subject rule. It will require projects in a bill to be parts of an overall system. This will inhibit the packaging of diverse projects into one bill. As a further restraint on logrolling, the bills for excess appropriations are subject to the item veto, including the appropriation of general obligation bond proceeds which are in excess of the limit. Bond proceeds which are not in excess of the limit are not subject to an item veto.

There are three exclusions from the limitation. Debt service is necessarily excluded. An additional exclusion is provided for appropriations for permanent fund dividends. Non-state money, that is, money received from the United States or others to be used for specific purposes, is also excluded. This exclusion includes revenue bond proceeds, the revenues generated by the international airports, and other public enterprises which operate on revenue bonds. The first exclusion is required by the federal constitution's prohibition against impairing contracts. The other exclusions are provided because the use of the money for those purposes is not a part of the problem.

The proposed amendment requires the governor to cause any unexpended and unappropriated balance to be invested

so as to yield competitive rates to the treasury. The words "as prescribed by law" were not included so that the clause will be self-executing. However, the governor performs all executive functions in the manner prescribed by law, and the statutes on loan programs and investments will control here so long as they are consistent with the constitution's requirements.

Additionally, so as to eliminate any reasonable grounds for opposition by those who wish to relocate the capital, the resolution includes a transitional measure to exclude relocation costs, if they are approved at the 1982 general election, from the requirement of additional voter approval under the amendment. Another transitional measure provides for the amendment to take effect beginning with the budget for fiscal year 1984.

Finally, still another transitional measure places the amendment on the ballot again at the 1986 general election to allow it to be repealed by the electorate should it prove to be unworkable. If it is unworkable, the people will repeal it. If it works, they will not.

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Sen. Bill Ray

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Rep. Richard W. Halford

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Sen. Donald E. Gilman

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Rep. Robert H. Bettisworth

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Sen. Frank R. Ferguson

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Rep. Hugh Malone

## CATASTROPHIC ILLNESS PROGRAM

\*Does the \$4 - 5 million figure quoted as the dollar amount of applications pending in the Catastrophic Illness program allow for any applications that might be received between now and the end of the FY83 fiscal year?

No. The \$4-5 million represents unfunded applications that have been received by DHSS to date.

\*Has the Department of Health & Social Services established a cut-off date for receiving and processing applications for FY83?

Although the Department has not established a formal cut-off date for processing applications, it is their intent to fund pending applications as additional funds become available, and then hold until FY84 any applications left unfunded in FY83. It should be noted that there has been a slowdown in the receipt of applications due to the knowledge by providers of care that the program is presently out of funds.

\*What is going to happen to the Catastrophic Illness program in FY84?

At present, both the House and Senate have funded the program at \$2.3 million for FY84. In order to avoid the situation where the number of requests far exceed the amount available for appropriation, the Department will be looking at changes that could be made to the eligibility criteria presently established for the program.

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\* Can the Department pro-rate the unfunded applications received as of 6/30/83 if a supplemental appropriation is provided for FY83?

The Catastrophic Illness Committee could elect to pro-rate available funding among the applications pending; it would also be feasible for them to fully pay all applications pending and hold any others received until FY84. The Cat Illness Committee has the ability to alter the formula (i.e., the amount paid based on the individual's resources and income), so the proration is a possibility. Funds could be encumbered so that there would be no need to extend the lapse date, etc.

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.**



Joe, Pappy, Vic

Don Gilman

Gene Dusek - OMB

HB 227 - means HB 227 - 285

SB 158 - deletion of past approp not required and reapprop.  
- number of changes in lapse dates  
- changes in message or intent

Sec. 1 - Div. of Elections  
Marjorie Minors, Director

100% in debt when taken over.  
no funds left. Caused by large voter turnout. Pamphlet went over card.  
Still getting field warrants from primary and general - mismanaged funds.

Sec. 2 - OMB office changes

4th & 5th of Court Bldg (management) 1st & 2nd  
(14,000 sq. feet) <sup>gov +</sup> ~~10,000 sq. feet~~ <sup>10,000 sq. feet</sup> Assembly Bldg (320 fl.) will move  
Old Bellows hall - will move out.  
75 positions. approp. for moving expenses and equipment. Want to buy modular furniture  
\$70,000 potential reduction in lease space.

Sec. 3 - Pub. Def.

Sec. 4 - ABC Bd. - "poor past management" Dusek.

Sec. 5 - CSED - reduction of Fed match from 75% to 70%

Sec. 6 - Debt retirement for schools. \$6.5 mil. will not accomplish 90% funding \$49.7 mil in 83 budget.

4.5 is half of shortfall. 81% reimbursement rate. W/o will be 69%.

\$42.8 - 1983 ~~needs~~ needs \$49.7 Appropriated  
\$90 - 1984 needs.

program needs to be capped.

Sec 7 - travel for athletic & musical events

V.C what if we don't provide addition of funds?  
- was funding of understanding that it would come out of foundation prog. in future.

Joe statutory mandate on a wish list?

School Activities Assoc. active affirmative action. Small schools can't afford to pay travel for males & females.

Sec 8 -

Sec 9 - funds in FY 84 budget for 17.5  
staff

Sec 10 - 250,000 assuming Dept of Correction would be April 1  
\$205.9 if effec May 1

??  
How did money leave  
Duesh bring back answer

Sec 11 - never used 1975 Fed funds -  
owed back - legal actions

Sec 12 - Admin pay for state and local departments. DNR underfunded.

Sec 13 - \$4.2

Sec 14 - an add on  
not legislatively mandated.  
What is argument??

Memo from DNR:

use funds:

1. part 3 up. Technical assist to place mining operators - safe ecologically sound. Assistance in permit procedures; on-site evaluations. \$113 mill needed
2. large backlog of unrecorded mining claims impedes mineral lease operations. Has processed 16,000 claims.

current staff/funds 15,000 claims behind

Sec 15 - Violent Crimes Comp Bd.

insuff. funds for claims

253.2 ~~million~~ <sup>thousand</sup> approp in FY 83

\$120,000 outstanding now.

\* \$112,000 needed now

Sec 16 - retro pay settlement of arbitrated grievances.

legal obligation

Sec 17 - increased insurance costs.

payroll charges. State Troopers and Fish & Wildlife Protection.

Sec 18 - old checks - state law cannot give current funds to.

we request  
Duck:  
- Breakdown  
on claims  
technical  
assist to minor  
- better  
language

Sec 19

Sec 20 Please bring back info

Sec 21 ha! ha!

\* Sec. 22 Fiscal note CS HB251  
is new funding available??

Sec 23

Sec. 24 - estimated (current) that we  
can reduce by \$7.0 million -  
potential of more money.

Vic Legislature underfunded, refund for political  
Contributions & Dry Core  
HB 227 (Gov) \$6 mill for credits (Political)  
now in HB 285, Current approx w/ 6 million  
should cover costs.

Sec 25-26

Reducing AFDC - can budgeted at  
higher rate / drop in case loads.

Vic reallocation should be in the Department.

Fy 84 expect increase  
- caseload inc.  
- inc. in payments.

Fy 83 - \$53 million request forward end of  
~~the~~ year, covered request - last more  
people & caseload, 5,200 families

currently  
OR-program design not changed  
since '53 so covering many periods

\* Vic - not Duck for rundown of programs. Shortage in HHS  
- implemented HHS 174 built into Gov request

Sec 27 - PFD shed themselves  
Dept anticipates 1.9 mil left over.

Sec 28 - inaccurate Fiscal date

Sec 29 - OK

Sec 30-31 - item Budgeted twice.

Sec 32 - language change to  
include all ferris in SE.  
Matricula/Malopina need work.

Pappay so they won't need money this year??  
capital approp. - no lapse date

Sec 34-35 Clarifies Cap. projects and  
no lapse date.

\* Tom Jones - Dept of law

lapse date prob. in law trust.  
HHS Admin Job Classification -  
language here.

\* Sec 36 - CIPA delay in job program  
will Fed changes have effect on this  
money & job program

Sec. 37 - lawsuit just settled since  
80 approp - need 3 yrs to implement

Sec 38 - Change - extend lapse date.

\* \$32,500 audit obligation to Presbyterian  
Hospitality House.  
Dorsch - in state dated warrants

624.  
136.9  
85.7  
12897.7  
673.9  
470.9  
478.2  
5.6  
4.5  
1097.3

to spend 4,203.0

2.5 Catastrophic illness

to spend 1,703.

NOTE: Senator Sackett is doing a separate bill for Div. of Elections Section 1.

MEMORANDUM

TO: JOE  
FROM: NANCY  
RE: SB 158

RESPONSE FROM GENE DUSEK - I DELIVERED A COPY TO EACH COMMITTEE MEMBER LAST WEEK, AND THERE IS ANOTHER COPY IN THE FILE.

AMENDMENTS - I HAVE CREATED A SEPARATE FILE FOR AMENDMENTS.

1. THERE IS A LIST OF ALL PROPOSED AMENDMENTS RECEIVED.
2. VIC HAS SOME AMENDMENTS BUT I HAVE NOT BEEN GIVEN COPIES, THEY ARE SUPPOSED TO HAVE CHANGED FROM THE ONES RECEIVED LAST WEEK.
3. THERE IS A MEMO FROM OMB CONCERNING SEVERAL SECTIONS OF THE BILL:  
  
SECTION 10: REDUCE AMOUNT TO \$205,900.
4. AMENDMENT #3 IS TO REALLOCATE EXCESS FUNDS IN THE FOSTER CARE COMPONENT IN DH&SS TO PROVIDE A SOCIAL WORKER FOR CHILD ABUSE REFERRALS IN THE PRINCE OF WALES AREA, AND TO PROVIDE A ONE-TIME TRAINING GRANT IN SOUTHEAST ALASKA.
5. AMENDMENTS #4, #5, AND #6 ARE FROM SENATOR MOSS, THERE IS NO BACK UP MATERIAL.
6. AMENDMENT #7 WAS GIVEN TO ME BY DAVE DONELLY, NO BACK UP MATERIAL.
7. AMENDMENT #8 WILL ALTER THE RATES PAID TO THE BETHEL RECEIVING HOME AND THE BETHEL GROUP HOME FOR CHILDREN IN CUSTODY OF THE STATE AND LIVING IN RESIDENTIAL FACILITIES.

THE INFORMATION GIVEN TO THE DEPARTMENT LAST YEAR WHEN SETTING THE RATES FOR A TWO YEAR PERIOD WHILE A STUDY WAS CONDUCTED, WAS INCORRECT FOR THE BETHEL HOMES.

8. AMENDMENT #9 AND #10 WOULD REAPPROPRIATE GENERAL FUND DOLLARS DELETED IN SECTIONS 25-26 OF THE BILL TO THE CATASTROPHIC ILLNESS PROGRAM.

IF WE DELETE SECTION 13 OF THE BILL (APPROPRIATING \$4.2 TO THE UNIVERSITY LAND SETTLEMENT) THIS WILL WORK. THE UNIVERSITY APPROPRIATION IS IN SB 40, WHICH IS SENATOR FAHRENKAMP'S BILL. I AM TOLD BY FINANCE THAT THE BILL WILL PASS, IT IS ON THE GOVERNOR'S PRIORITY LIST, AND SENATOR BETTYE TOTALLY SUPPORTS USING THESE FUNDS FOR CATASTROPHIC ILLNESS. AS YOU KNOW, CAT ILLNESS HAS BEEN OUT OF FUNDS SINCE JANUARY AND CURRENTLY HAS OVER FOUR MILLION IN REQUESTS. O.K. WITH YOU??

↓  
O.K.  
✓