

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

2966

HSA

HB 484

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HB 485

2860

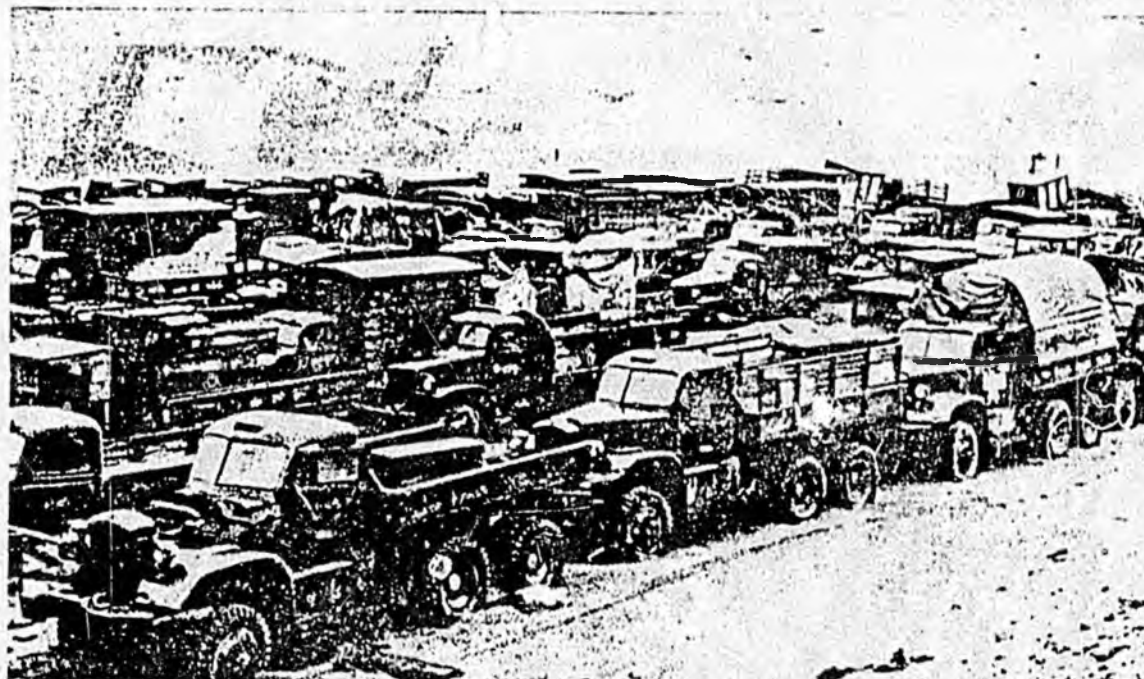
Heavy equipment (such as bulldozers and Cats) and vehicles (such as trucks) were all buried in the Aleutian Island.

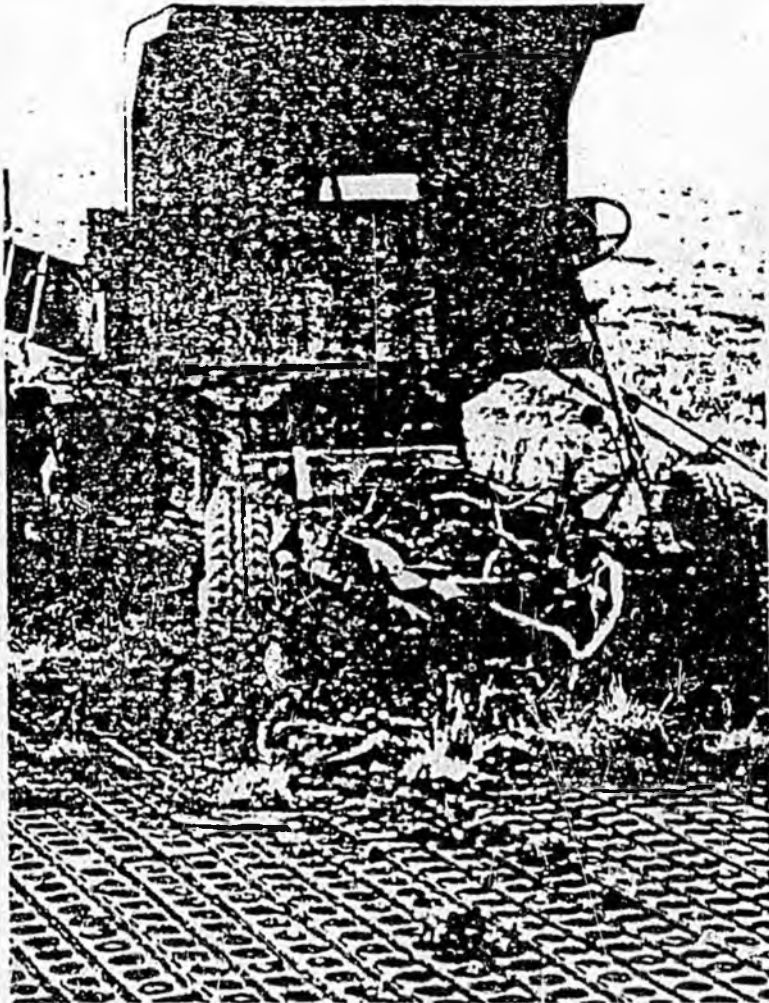
USA



In closing the air bases in the Aleutians Islands after WW II, trenches were dug. Trucks and jeeps like these and staff cars were driven into the trenches and then completely were buried.

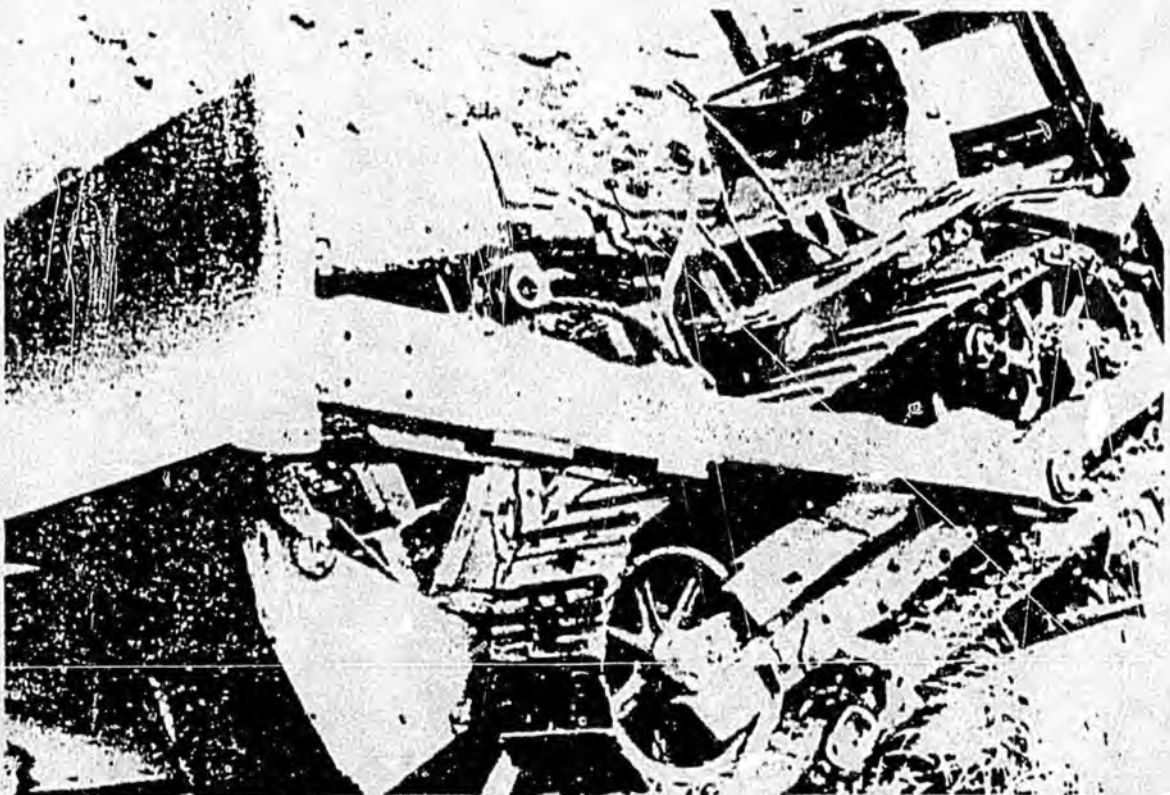
USAF





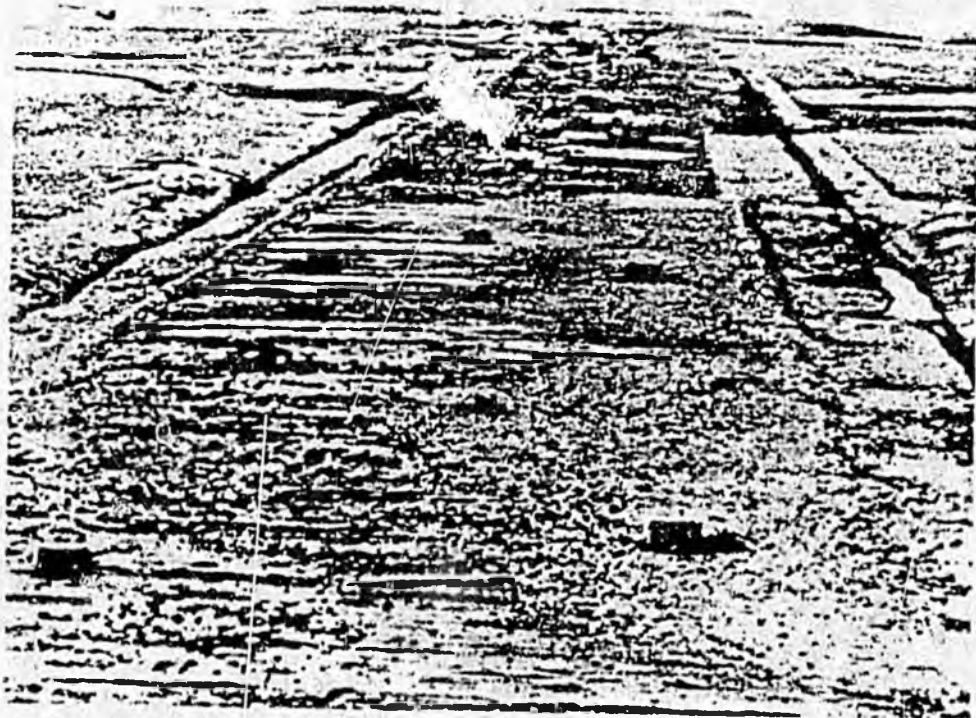
American 5CY Dump Truck on
Runway Matting.

USN



Typical Remains of an Engineer
Bulldozer.

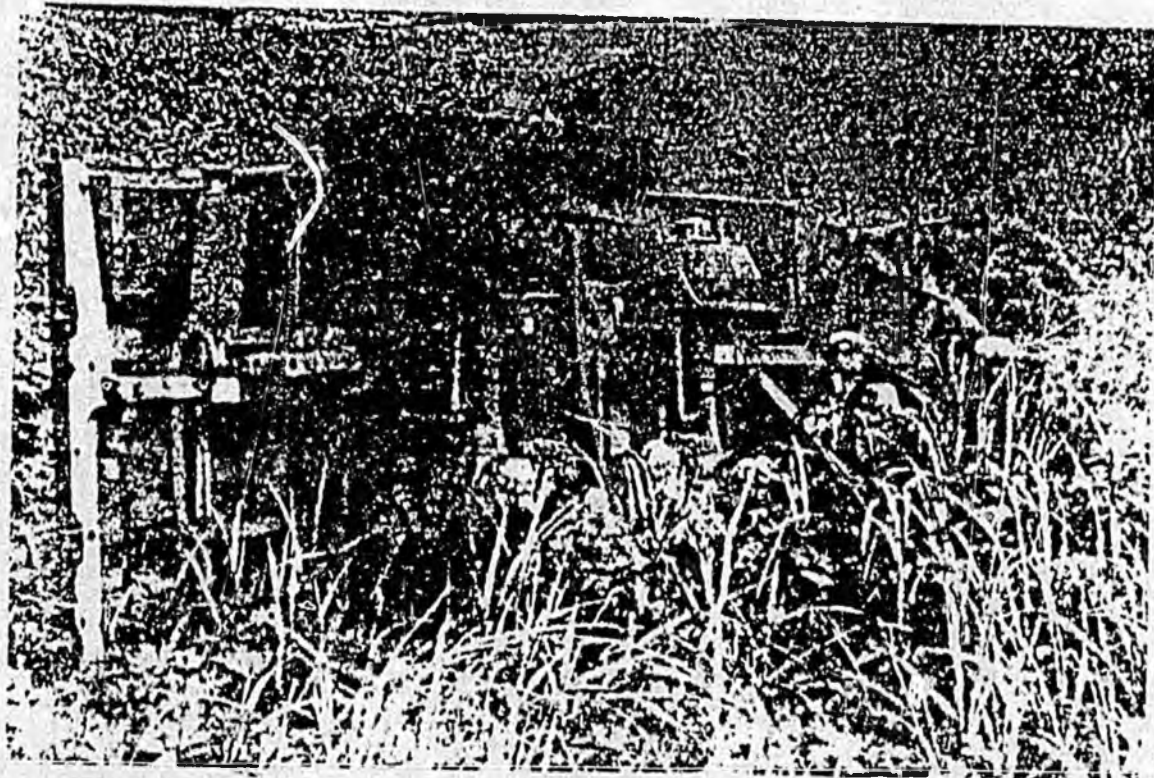
COE

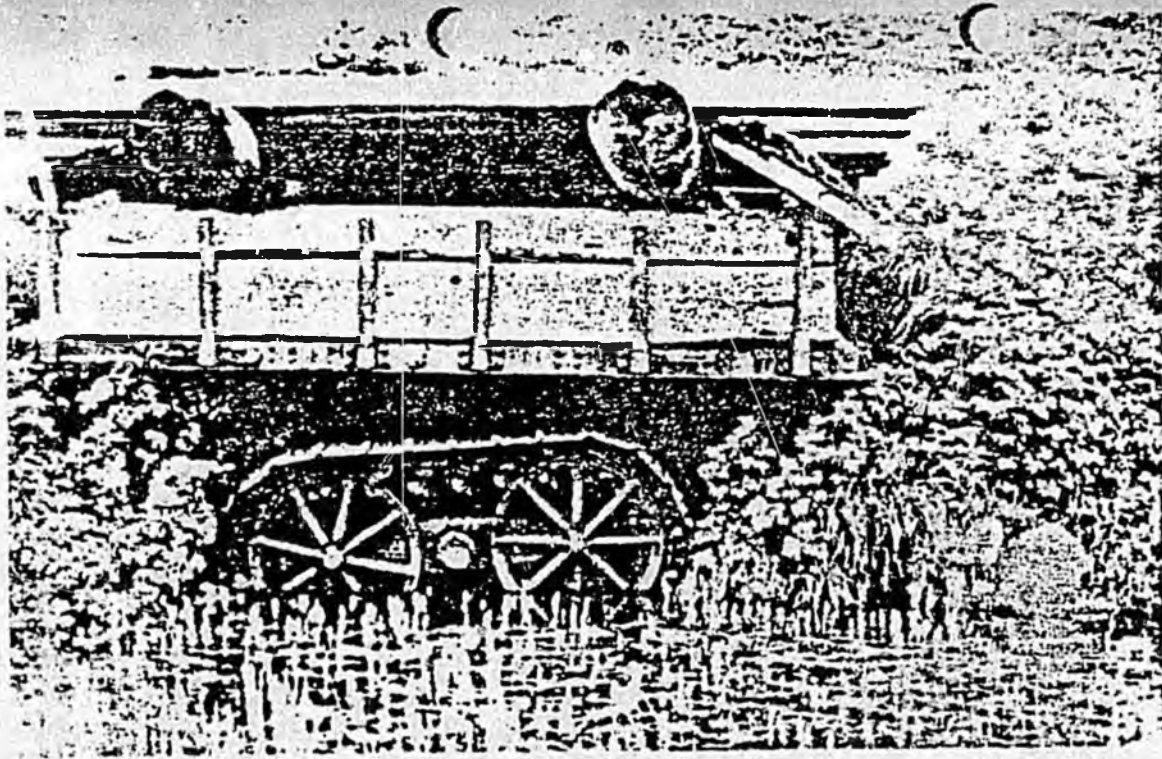


Abandoned Engineer Construction Vehicles on Steel Matting Runway.
USN

Japanese Model 94 (1934) 6 X 4 Utility Truck.

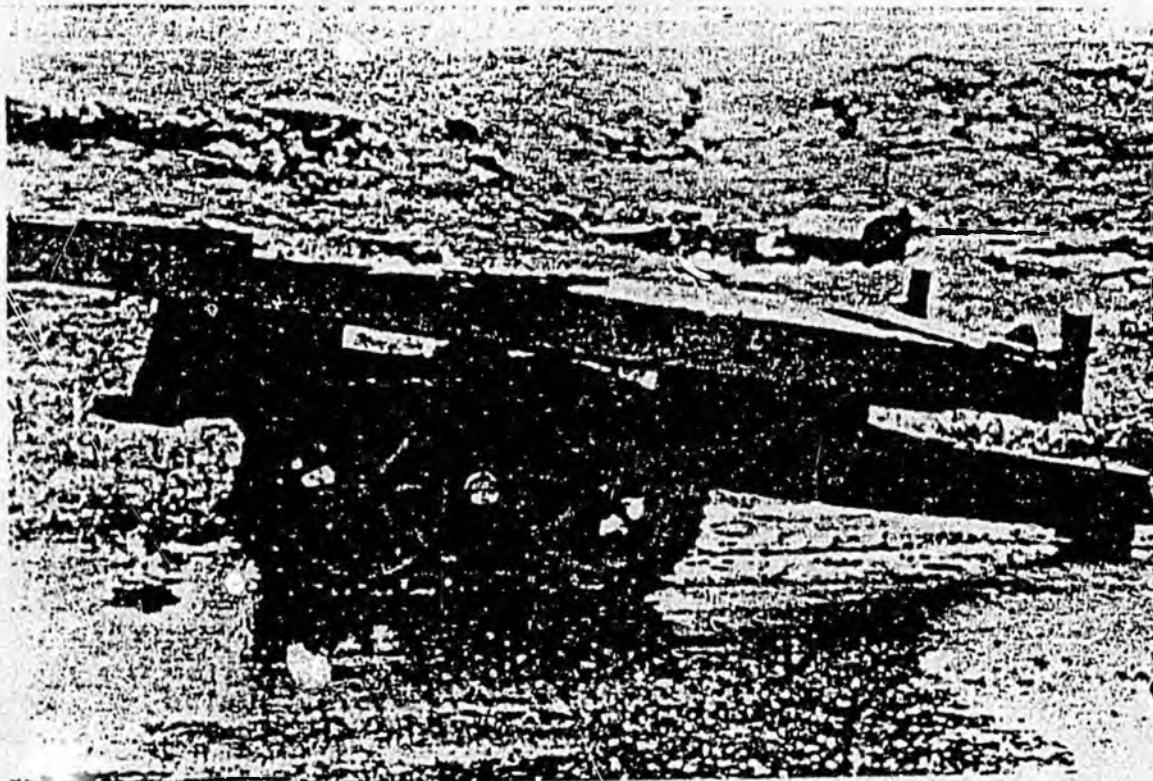
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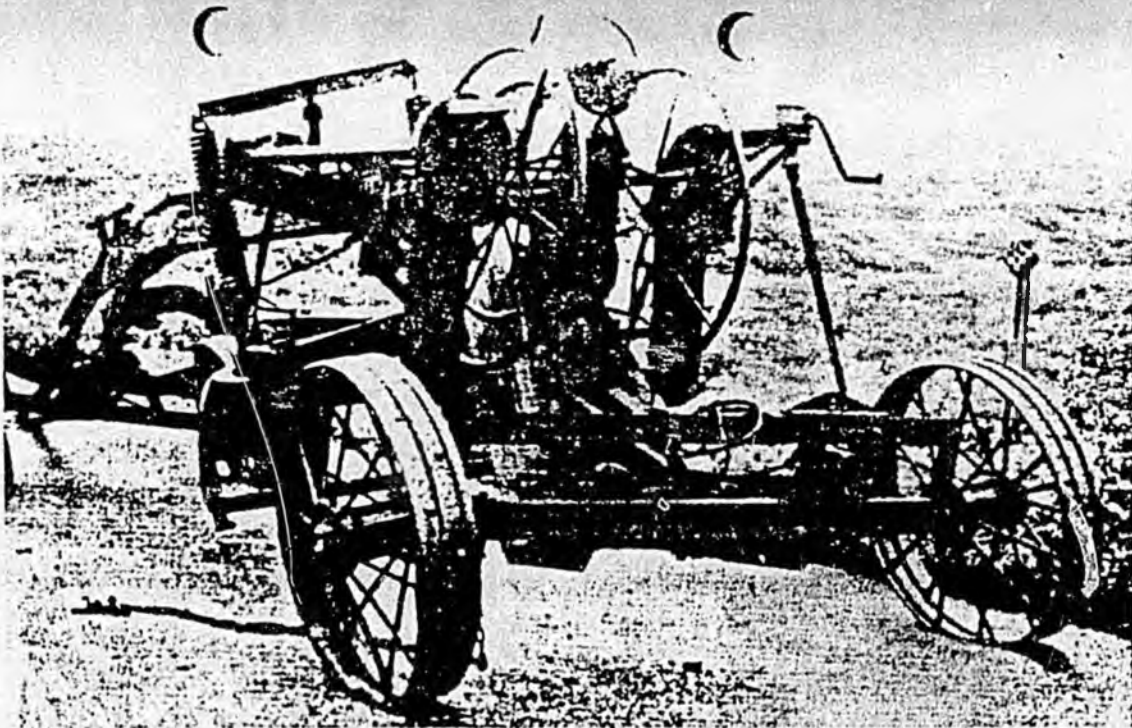




American Bulldozer-Pulled ATHEY Vehicle.

COE

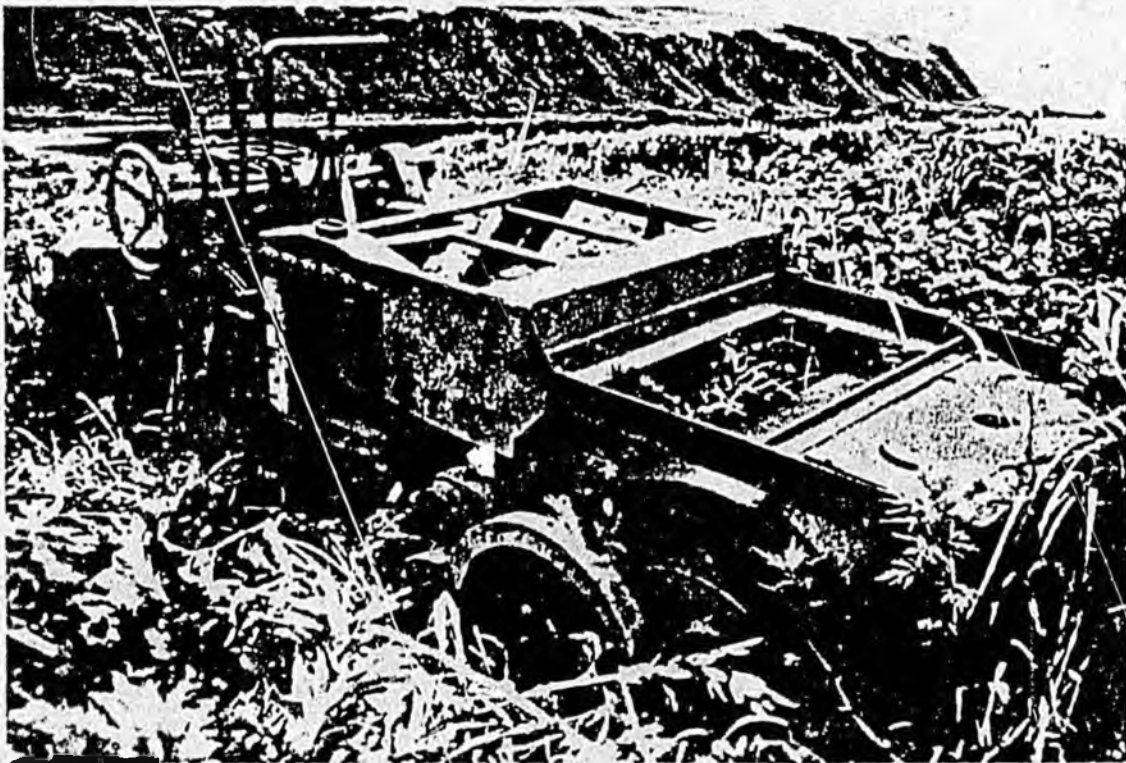


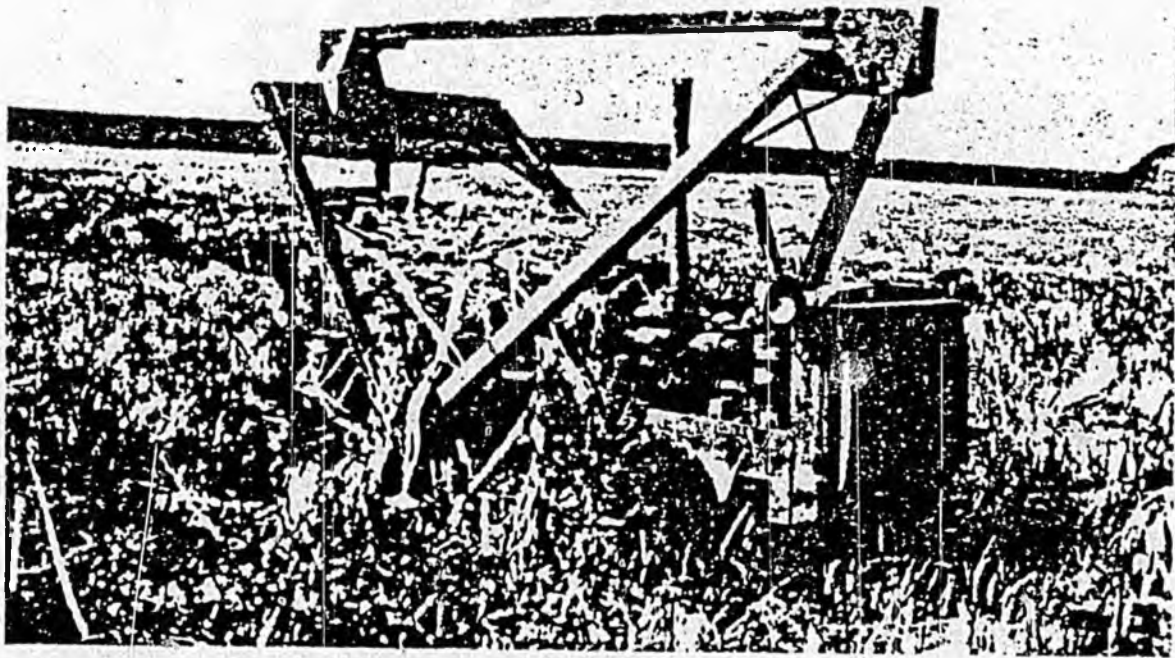


American Tractor-Pulled Scraper for Airfield and Road Construction.
USEWS

A steam Roller, which was used in a construction of runways and roads,
is sitting in an Aleutian island.

USEWS





American D4 Caterpillar bulldozer.

USFWS

Floats for American Anti-Submarine Nets.

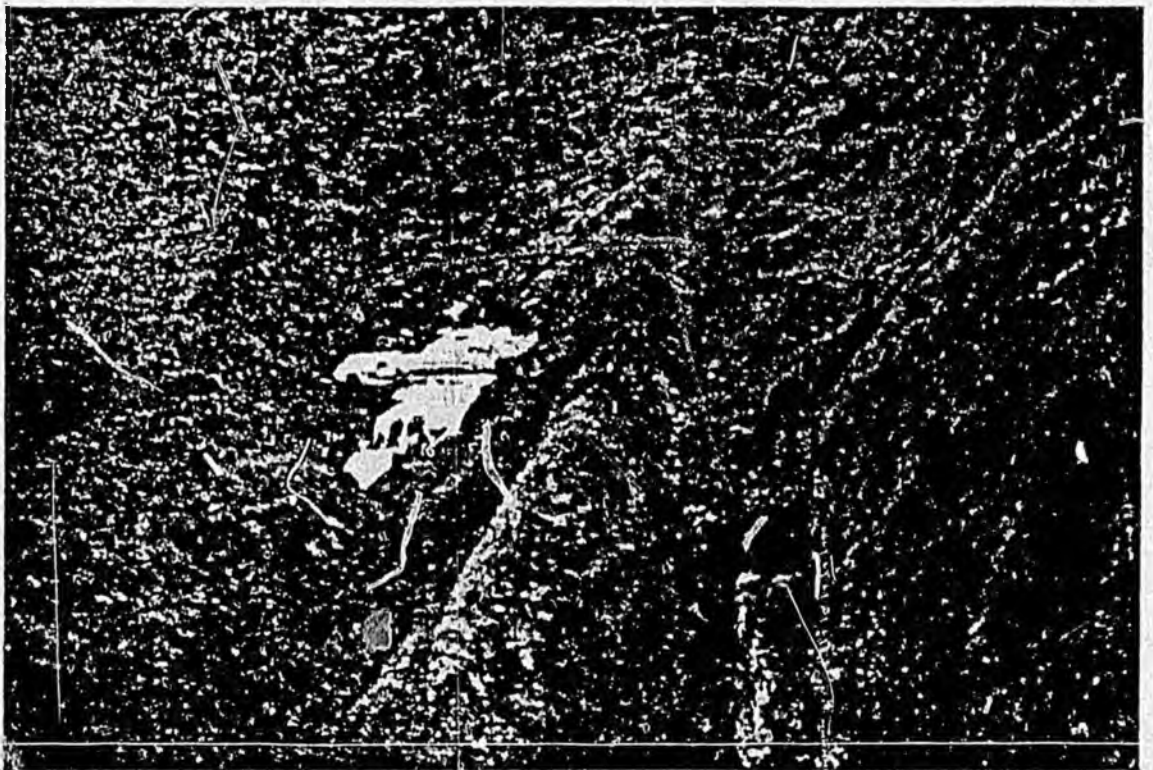
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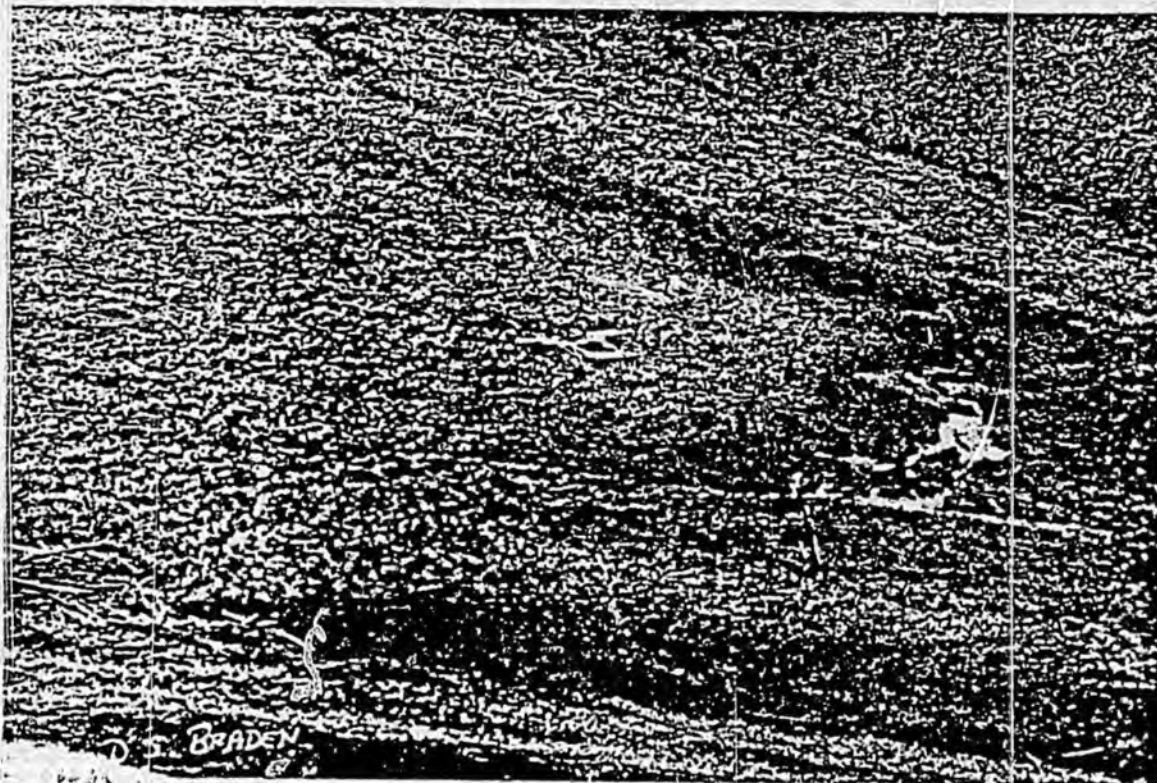




This B-25 Mitchell went down on a hillside in the Aleutians some time during the Aleutian Campaign.

USFWS



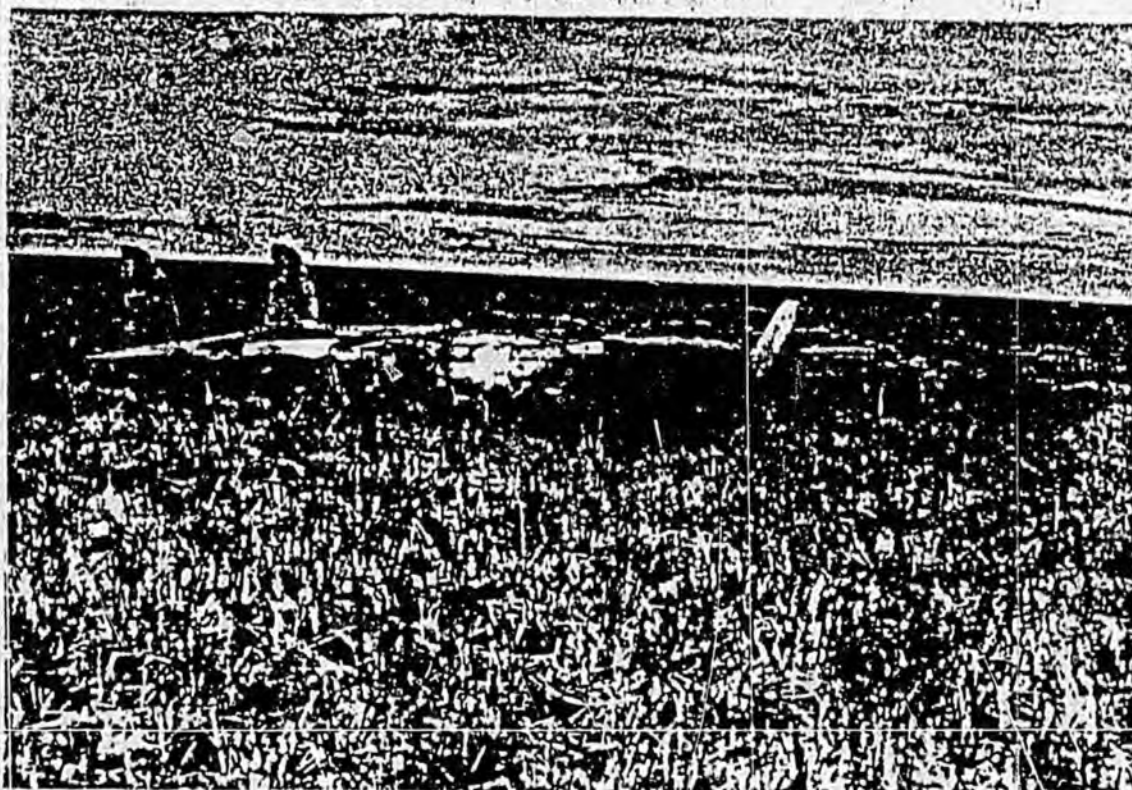


Aerial view of a P-38 Lightning that bellied in on an Aleutian Island.

DSB

On a ground view showing the P-38 which the USAF blew up to dispose off the radar equipment after the Aleutian Campaign.

USEWS



HB

485

Alaska State Legislature

A



REPRESENTATIVE

POUCH V
JUNEAU, ALASKA 99811

ROBERT H. "BOB" BETTISWORTH

211 CLEVELAND
FARBANKS, A 99701

March 2, 1984

M E M O R A N D U M

To: Representative Mitch Abood, Chairman, House State Affairs

JPHB

From: Representative Bob Bettisworth

Subject: HB485 "An Act establishing a biennial budget; and providing for an effective date."

This bill is companion legislation to HJR52 which would amend the Constitution of the State of Alaska to provide for a biennial budget cycle. The acceptance by the voters of the ballot proposition contained in HJR 52 would trigger the changes to statute contained in the subject bill.

Essentially this bill will require the Governor to prepare and submit a budget for two succeeding fiscal years to the legislature by the fourth day of each second legislative session. The legislation basically inventories all existing sections of current statute for references to annual budgeting and changes them to conform to biennial budget format. Section 20 on page 7 is a new section providing for annual adjustments to the biennial budget including special and supplemental appropriations.

Sectional Analysis:

Section 1: Intent language expressing the legislative mandate to change to biennial budget with annual reporting and auditing to remain on an annual basis by fiscal year.

Section 2: Changes public school foundation account language to biennial format.

Section 3: Changes average daily membership language to biennial format.

Section 4: Changes annual language to biennial budget format for approved school food service programs.

Section 5: Changes the Alaska court system to conform with a biennial budget format by removing the word annual.

Section 6: Changes appropriations for "special officers" to a biennial format.

Section 7: Changes appropriations for "members of state boards and commissions" to a biennial format.

Section 8: Changes estimates of annual legislative operating expenses by the Legislative Council to a biennial budget for submission to the house and senate finance committees.

Section 9: Changes Legislative Council's budget submission from annual to biennial format

Section 10: Changes informational requirement that the Ombudsman submit an estimated budget for informational purposes to the governor from annual to biennially.

Section 11: Changes the annual format for contributions to the Alaska National Guard and Naval Militia retirement systems to a biennial budget time frame within the Department of Military Affairs budget.

Section 12: Removes references to annual with regard to operating budget amounts forming the basis for community disaster loans but leaves in fiscal year for determining when the disaster occurred.

Section 13: Under the Correctional Industries Commission statutes removes annual from budget review function to comply with proposed biennial budget format.

Section 14: Under statutes for the legally questionable "Reserve for Capital Outlay Account" the word annual is removed from the section dealing with appropriation of the proceeds of the account to put the language in conformation with a biennial budget format.

Section 15: Would put the proceeds of the legally questionable "Reserve for Energy Facilities Development Account" into conformity with biennial appropriation.

Section 16: Changes definition section of the "Public Finance" title to conform to a biennial budget cycle by removing budget year from the list of defined terms.

Section 17: Inserts the word biennial into the Statement of Policy section of title 37 (Public Finance) to bring it into conformity with a biennial budget format.

Section 18: Changes the responsibilities of the Governor under the Public Finance statutes from annual budget submission to the Legislature before the fourth legislative day to biennial budget submission before the fourth legislative day of each second regular legislative session. Section 18 also replaces fiscal year with two fiscal years to conform to a biennial budget format.

Section 19: Changes succeeding fiscal year to succeeding two fiscal years where proposed expenditures may not exceed estimated revenues.

Section 20: Adds a new subsection (AS 37.07.020 (e)) which empowers the governor to propose biennial budget adjustments, including special and supplemental appropriations during the first year of legislative sessions.

Section 21: Changes the responsibilities of the legislature under the Public Finance statutes to reflect a biennial budget format including estimates or receipts required to balance the budget over a biennial cycle etc.

Section 22: Makes comprehensive changes to the language related to the Office of Management and Budget within Title 37 to conform to a biennial budget cycle.

Section 23: Makes comprehensive changes to the Section on agency program and financial plans section of Title 37 to conform to a biennial budget cycle. This section deals with what level of detail is required in budget submissions, goals and objectives, implementation of goals and objectives, a budget, receipts from the past cycle, estimated current year receipts and the year to come, a statement of required legislation, etc.

Section 24: Brings the budget requests of boards and commissions generally under a biennial budget format.

Section 25: Makes changes to the section of statute regarding the Governor's recommendation to the legislature to conform to a

biennial budget format. The governor would be required to submit for the succeeding two fiscal years and the governor would present the comprehensive budget message to the joint session of the legislature before the fourth legislative day following the convening of the legislature in each second regular session instead of every regular session. The accompanying report required would contain operating and capital budget recommendations for the succeeding two fiscal years, a summary of state receipts in the last two fiscal years, and an estimate of state receipts for the succeeding two years. Expenditures would be summarized for the last two fiscal years and estimated for the succeeding two fiscal years as well.

Section 26: Would bring the possibly unconstitutional Alaska Renewable Resources Development Fund under the biennial budget format within the governor's budget presentation and in accordance with the Executive Budget Act in general (AS37.07).

Section 27: Again, with regard to the Alaska Renewable Resources Development Fund, expenditure plans for the income from the fund shall be prepared cooperatively and presented in the Governor's biennial budget presentation and not less than 80% of the fund plan for expenditure over the biennium must be spent on direct capital expenditures.

Section 28: Brings the Alaska Resources Corp. into the biennial budget format for preparation of their biennial budget and long range operating and financial plans.

Section 29: Changes the language under the section dealing with the Permanent Fund Corporation's budget to biennial operating budget instead of annual operating budget.

Section 30: Puts the Land Disposal Bank into conformity with a biennial budget cycle by mandating that the commissioner submit an appropriation request for land disposal by fiscal year but for the biennium.

Section 31: Would bring the chapter on Old Age and Survivors Insurance and specifically the section on administrative costs and rates of assessment on political subdivisions for the FICA administration fund into compliance with a biennial budget cycle.

Section 32: Brings the Outdoor Recreational, Open Space, and Historic Properties Development Fund within DNR into compliance with a biennial budget cycle with respect to plans for expenditure from the fund.

Section 33: Requires DOT/PF to submit a biennial budget to the legislature for their consideration and approval to include all money collected or anticipated to be collected under the motor fuel tax chapter. (note: Dept. of Public Works may be an error)

Section 34: Changes the requirement that a qualified regional aquaculture assoc. requesting state assistance submit an annual budget to commerce to submission of a biennial budget.

Section 35: Changes the statutes governing the Capital city development oversight committee to conform to a biennial budget cycle.

Section 36: Puts the working capital fund within DOT/PF into a biennial budget cycle with respect to legislative appropriations and executive budget detail.

Section 37: Would require that when the Alaska Power Authority permits a power project to be operated by a qualified utility under a contract or lease the authority must review a biennial budget for operation and maintenance of the project instead of an annual O&M budget.

Section 38: Changes the Municipal Bond Bank from an annual budget submission to a biennial budget format for preparation and submission under the Executive Budget Act.

Section 39: This section may be unnecessary since the CETA program no longer exists and apparently has been replaced with the JTPA program (Job Training Partnership Act). Karen Perdue, Director, Division of Community Development, C & RA, says that this may still be the authority for the new federal program.

Section 40: Deals with appropriations from the "oil spill mitigation account". The effect of removing the word annually where the sub-section dealing with legislative appropriations just makes it clear that the intention is not that the fund is to be tapped every year.

Section 41: Mandates that the annual interdepartmental program budget submission by the Governor's council on handicapped and gifted to the Department of Health and Social Services, as an informational supplement to the regular department budgets be done biennially.

Section 42: Effective date section making the effective date the effective date of HJR52 proposing an amendment to the Constitution of the State of Alaska to provide for a biennial budget.

All personal pronouns that relate to the sexes have been rendered neutral in this legislation where they previously existed.

rob



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

February 17, 1984

MEMORANDUM

TO: Representative Bob Bettisworth
Attention: Ralph Bennett

FROM: O. Alexander Hoke *O. Alexander Hoke*
Legislative Analyst

RE: Impact of Biennial Budgeting on Cash-Based Budgeting
Research Request 84-040

As you requested, this memorandum addresses the impact of legislation which initiates biennial budgeting (HJR 52 and HB 485) on the proposal to institute cash-based budgeting in the state (CS HJR 39).

Multiple Interpretations of Biennial Budgeting

The implications of having both biennial budgeting and cash-based budgeting approved by the voters in the upcoming general election depends substantially on the ultimate legislative interpretation of these budgeting concepts. As discussed in David Teal's November 25, 1983 memorandum to you, biennial budgeting has different meanings in the states in which it is practiced. Nine states have both biennial sessions with biennial budgets and special provisions for amending the budget on an annual basis. Twelve states have annual sessions with biennial budget cycles, and provide for full legislative review of the budget each year. Of the 21 states with a biennial budget, all but four make separate appropriations for each year of the biennium. Biennial budgeting practices among the states range from systems almost indistinguishable from annual budgeting to true two-year budgets with allowances for only minor (or emergency) amendments.

Biennial budgeting under HJR 52 and HB 485 seems to qualify as a true two-year budget and appropriation cycle. Biennial budgeting in HJR 52 calls upon the governor to submit "a budget for the next two fiscal years setting forth all proposed expenditures and anticipated income ...with a general appropriation bill to authorize the proposed expenditures..." The companion bill (HB 485) states that "the biennial budget shall contain appropriations for the succeeding two fiscal years and state agencies shall prepare their budgets on this basis."

The Intent of Cash-Based Budgeting

The intent of cash-based budgeting (as defined by HJR 39) is to eliminate "revenue uncertainty" by restricting appropriations for a given fiscal year to the level of total General Fund unrestricted revenues for the preceding calendar year. HJR 39 provides for a cash reserve equal to 1.5 times the appropriations of the fiscal year preceding the start of cash-based budgeting. With this cash reserve, the legislature can be certain that funds are available to cover expenditures through the balance of the current fiscal year (6 months) and the coming fiscal year (12 months).¹

Revenue Certainty Under A Biennial Budget

An 18-month revenue reserve is needed when cash-based budgeting applies to a 12-month budgeting period. If the State adopted a two-year (24-month) budget period through biennial budgeting, cash-based budgeting would require a 30-month cash reserve in order to provide full certainty that available funds are sufficient to offset expenditures over the budget period. With a 30-month reserve, the legislature would know at the beginning of the session that funds were available to cover expenditures through the remainder of the current budget period (6 months) as well as the coming budget period (24 months).

Table 1 shows the fiscal impact of combining the concepts of biennial budgeting and cash-based budgeting (as defined by HJR 39) for a 30th percentile revenue projection. The fiscal impact of these two proposals is the requirement of annual contributions (column 7) of general funds of between \$267 and \$358 million for a 12-year period, totaling \$3.686 billion. The underlying assumption of this calculation is that the legislature intends to prepare a two-year budget and wants to be certain that funds will be available to cover the total appropriation for the two-year budget.

In comparison with a two-year budget cycle, the cost of cash-based budgeting as defined in CS HJR 39 is \$2.866 billion (sum of contributions shown in Table 2), or \$820 million less than the cost of cash-based budgeting under a true biennial budget cycle.

¹See House Research Agency report 83-A; Cash-Based Budgeting: A Response to Revenue Uncertainty.

Table 1

THE GENERAL FUND AS A REVENUE SOURCE FOR CASH-BASED BUDGETING
Based on a 30th Percentile Revenue Projection
(millions of dollars)

Fiscal Year	DOR Revenue Forecast	Revenue Under CBB	Potential Expenditure Level	General Fund Earnings	General Fund BalanceCash-Based Budgeting Reserve Fund....		
						Contributions	Earnings	Balance
1981	3,769		3,769	201	2,010			
1982	4,174		4,174	254	2,540			
1983	3,624		3,624	266	2,660			
1984	3,233		3,233	300	3,000			
1985	3,219		3,219	250	2,500			
1986	3,365	3,069	3,069	259	2,590	296.1	14	310
1987	3,729	3,401	3,401	288	2,880	328.2	48	686
1988	3,711	3,384	3,384	288	2,880	326.6	87	1,109
1989	4,068	3,710	3,710	318	3,180	358.0	132	1,590
1990	3,880	3,539	3,539	301	3,010	341.4	183	2,114
1991	3,582	3,267	3,267	275	2,750	315.2	236	2,665
1992	3,536	3,225	3,225	270	2,700	311.2	294	3,270
1993	3,405	3,105	3,105	258	2,580	299.6	357	3,927
1994	3,290	3,000	3,000	247	2,470	289.5	425	4,641
1995	3,195	2,914	2,914	236	2,360	281.2	499	5,421
1996	3,033	2,766	2,766	222	2,220	266.9	580	6,269
1997	3,092	2,820	2,820	225	2,250	272.1	669	7,210
1998	3,159	3,890	3,063	960	10,327			
1999	3,213	3,989	3,491	1,007	10,845			
2000	3,245	4,029	3,939	1,016	10,945			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

col.

- 2 Department of Revenue January, 1984 revenue projection.
- 3 Revenues after effects of cash-based budgeting program. During the CBB reserve contribution period, revenues (column 3) are equal to DOR projections minus annual CBB contributions. Starting with the first cash-based budgeting year, revenues (column 3) are equal to DOR projections plus additional earnings which accrue to the general fund as a result of transferring the CBB reserve fund balance to the general fund.
- 4 Expenditure levels are presently limited to projected revenues (ignoring the Constitutional appropriation limit). Beginning with the first cash-based budgeting year, expenditures will be limited to the revenues collected in the previous calendar year.
- 5 General fund earnings are DOR projections up to the start of cash-based budgeting, at which point the general fund earnings will be augmented due to the increased earnings capacity of the general fund from that point on into the future.
- 6 Beginning with the first cash-based budgeting year, the general fund balance is substantially increased by the transfer of the CBB reserve fund.
- 8 Reserve fund earnings are calculated at a 10 percent annual interest rate compounded monthly.
- 9 The earnings rate of the CBB reserve fund is compounded monthly using a 10% annual interest rate.

This projection is based on a general fund unrestricted revenue contribution of 8.8 percent.

Table 2

THE GENERAL FUND AS A REVENUE SOURCE FOR CASH-BASED BUDGETING
Based on a 30th Percentile Revenue Projection
(millions of dollars)

Fiscal Year	DOR Revenue Forecast	Revenue Under CBB	Potential Expenditure Level	General Fund Earnings	General Fund BalanceCash-Based Budgeting Contributions	Reserve Earnings	Fund.... Balance
1981	3,769		3,769	201	2,010			
1982	4,174		4,174	254	2,540			
1983	3,624		3,624	266	2,660			
1984	3,233		3,233	300	3,000			
1985	3,219		3,219	250	2,500			
1986	3,365	3,069	3,069	259	2,590	296.1	14	310
1987	3,729	3,401	3,401	288	2,880	328.2	48	686
1988	3,711	3,384	3,384	288	2,880	326.6	87	1,100
1989	4,068	3,710	3,710	318	3,180	358.0	132	1,590
1990	3,880	3,539	3,539	301	3,010	341.4	183	2,114
1991	3,582	3,267	3,267	275	2,750	315.2	236	2,665
1992	3,536	3,225	3,225	270	2,700	311.2	294	3,270
1993	3,405	3,105	3,105	258	2,580	299.6	357	3,927
1994	3,290	3,000	3,000	247	2,470	289.5	425	4,641
1995	3,195	3,644	3,348	685	7,297			
1996	3,033	3,483	3,467	672	7,174			
1997	3,092	3,540	3,564	673	7,180			
1998	3,159	3,617	3,512	687	7,325			
1999	3,213	3,680	3,578	698	7,447			
2000	3,245	3,718	3,648	705	7,527			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

col.

2 Department of Revenue January, 1984 revenue projection.

3 Revenues after effects of cash-based budgeting program. During the CBB reserve contribution period, revenues (column 3) are equal to DOR projections minus annual CBB contributions. Starting with the first cash-based budgeting year, revenues (column 3) are equal to DOR projections plus additional earnings which accrue to the general fund as a result of transferring the CBB reserve fund balance to the general fund.

4 Expenditure levels are presently limited to projected revenues (ignoring the Constitutional appropriation limit). Beginning with the first cash-based budgeting year, expenditures will be limited to the revenues collected in the previous calendar year.

5 General fund earnings are DOR projections up to the start of cash-based budgeting, at which point the general fund earnings will be augmented due to the increased earnings capacity of the general fund from that point on into the future.

6 Beginning with the first cash-based budgeting year, the general fund balance is substantially increased by the transfer of the CBB reserve fund.

8 Reserve fund earnings are calculated at a 10 percent annual interest rate compounded monthly.

9 The earnings rate of the CBB reserve fund is compounded monthly using a 10% annual interest rate.

This projection is based on a general fund unrestricted revenue contribution of 8.8 percent.

Representative Bettisworth
February 17, 1984
Page 5

Biennial Budgeting With Annual Review

If the State of Alaska budgeted biennially but with full legislative review annually, the effect would be little different from annual budgeting. Consequently, the impact of this type of biennial budgeting on cash-based budgeting would be negligible.

We hope that this information is helpful in your deliberations on biennial budgeting. If you have further questions regarding the relationship of biennial budgeting to cash-based budgeting, please give the agency a call.

OAH



REPRESENTATIVE

ROBERT H. "BOB" BETTISWORTH

POUCH V
JUNEAU, ALASKA 99811

211 CUSHMAN STREET
FARBANKS, ALASKA 99701

March 5, 1984

M E M O R A N D U M

PHS
To: Representative Mitch Abood, Chairman, House State Affairs
Committee and committee members

From: Representative Bob Bettisworth

Subject: Expanded statute references for HB485

The following statutes are related to sections identified by number that appear in the original version of HB485, " An Act establishing a biennial state budget; and providing for an effective date." These expanded statutes are provided to help the committee see changes in context where sections and sub-sections may be too short for clarity. Where no additional material from statute is provided the subject of the statute to be amended is cited for clarity.

Section 1: Legislative intent.

Section 2: Public School Foundation Account

Section 3: Average daily membership allotment supplemental account.

Sec. 14.17.215. State aid to districts affected by state activities.

Repealed by § 20 ch 26 SLA 1980.

Editor's notes. — The repealed section derived from § 7, ch. 95, SLA 1969.

Section 4: State aid to districts operating approved school food service programs

Sec. ~~14.17.205~~ State aid to districts operating approved school food service programs. A school district that qualifies for and provides free and reduced-price lunches to students who qualify under the Federal Nutrition Act shall receive state aid in an amount for each free or reduced-price meal equal to the federal allowances multiplied by the school district's area differential in AS 14.17.051. (§ 11 ch 90 SLA 1977)

Section 5: Alaska Court System

Section 6: Special officers as employees.

Sec. 23.30.241. Special officers as employees. (a) A special officer appointed under AS 18.65.010(a) is considered an employee under this chapter only when he is actually traveling or working as a special officer. The weekly wage earned in the special officer's regular employment shall be used in computing the amount of compensation to be awarded. If a special officer has no regular employment, the minimum wage paid a full-time state trooper shall be used in computing the amount of compensation to be awarded.

(b) Annual appropriations to fund the coverage provided for in (a) of this section shall be provided for in the budget of the Department of Public Safety. (§ 1 ch 6 SLA 1978)

Section 7: Members of state boards and commissions as state employees.

Sec. 23.30.242. Members of state boards and commissions as employees. (a) A member of a state board or commission is considered an employee under this chapter only while he is actually traveling or working as a member of the board or commission. The maximum weekly wage shall be used in computing the amount of compensation to be awarded.

(b) Annual appropriations to fund the coverage provided for in (a) of this section shall be provided for in the budget of the Office of the Governor. (§ 1 ch 105 SLA 1969; am § 54 ch 69 SLA 1970)

NOTES TO DECISIONS

Stated in Laborers & Hod Carriers
Local 341 v. Gronthuis, Sup. Ct. Op. No.
773 (File Nos. 1435, 1459), 494 P.2d 808
(1972).

Collateral references. — Public offi-
cers as within statute. 5 ALR2d 415.

Section 8: Legislative operating expenses.

Section 9: Legislative Council.

Section 10: Ombudsman

Section 11: Alaska National Guard and Alaska Naval Militia retirement systems

Sec. 26.05.226. Contributions. (a) The Department of Military Affairs shall contribute to the Alaska National Guard and Alaska Naval Militia retirement system the amounts determined by the commissioner of administration as necessary to

(1) fund the system based on the actuarial requirements of the system as established by the commissioner of administration; and

(2) administer the system.

(b) The amount required for contributions from the Department of Military Affairs under (a) of this section shall be included in the annual appropriations made to the Department of Military Affairs. (§ 17 ch 159 SLA 1972; am § 14 ch 146 SLA 1980; am § 34 ch 137 SLA 1982)

Effect of amendments. — The 1980
amendment rewrote the section.
The 1982 amendment, effective July 1,

1982, inserted "and Alaska Naval Militia"
in the introductory paragraph of subsec-
tion (a).

- Section 12: Community Disaster Loans.
- Section 13: Correctional Industries Commission & correctional industries program.
- Section 14: Reserve for capital outlay account.

Sec. 37.05.157. Reserve for capital outlay account. (a) There is created within the general fund the reserve for capital outlay account.

(b) Twenty-five per cent of the annual receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be allocated to the reserve for capital outlay account.

(c) The proceeds of the reserve for capital outlay account are subject to annual appropriation by the general appropriation act. (§ 10 ch 168 SLA 1978)

Opinions of Attorney General. — that it restricts the purpose for which This fund appears to be an unconstitutional dedication under § 7, art. IX. of the state constitution to the extent money may be spent. November 30, 1982. Op. Att'y Gen.

- Section 15: Reserve for energy facilities development account.

Sec 37.05.158. Reserve for energy facilities development account. (a) There is created within the general fund the reserve for energy facilities development account.

(b) Five per cent of the annual receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be allocated to the reserve for energy facilities development account.

(c) The proceeds of the reserve for energy facilities development account shall be subject to annual appropriation by the legislature. Plans for expenditures from the account shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of the governor's annual budget presentation. (§ 11 ch 168 SLA 1978)

Opinions of Attorney General. — that it restricts the purpose for which This fund appears to be an unconstitutional dedication under § 7, art. IX. of the state constitution to the extent money may be spent. November 30, 1982. Op. Att'y Gen.

- Section 16: Public Finance title definitions

Sec. 37.05.400. Definitions for chapter. In this chapter

(1) "fiscal year," "budget year," "accounting year," or similar term means a year beginning on July 1 of one calendar year and ending on June 30 of the following calendar year;

(2) "handicapped individual" means an individual under a physical or mental disability which constitutes a substantial handicap to employment;

(3) "sheltered workshop" means a place where manufacture or handiwork is carried on, and which is operated for the primary purpose of providing remunerative employment to handicapped individuals.

Section 16 continued:

(4) "state agency," "agency," "department," or similar term means a department, office, institution, board, commission, bureau, division, or other administrative unit forming the state government, and includes the Alaska Pioneers' Home and the University of Alaska. (§ 3 art I ch 82 SLA 1955; am § 1 ch 186 SLA 1957; am § 2 ch 92 SLA 1975; am § 6 ch 46 SLA 1977)

Revisor's notes. — Formerly AS 37.05.320. Renumbered in 1983 and reorganized to alphabetize the defined terms.

NOTES TO DECISIONS

Cited in Carter v. Alaska Pub. Employees Ass'n, Sup. Ct. Op. No. 2657 (File No. 6586), P.2d (1983).

- Section 17: State financial management--Statement of Policy.
- Section 18: Public Finance Title--Responsibilities of the Governor; budget submission to the legislature.
- Section 19: Public Finance Title--Responsibilities of the Governor; expenditures may not exceed revenues.
- Section 20: AS 37.07.020 amended to add new section allowing for adjustments to biennial budget in off years.
- Section 21: Public Finance Title--Responsibilities of the Legislature
- Section 22: Public Finance Title--Office of Management & Budget; responsibilities.
- Section 23: Public Finance Title--Agency program and financial plans; responsibilities of line agencies.
- Section 24: Public Finance Title--Agency program and financial plans; responsibilities of boards and commissions.
- Section 25: Public Finance Title--Governor's recommendation regarding operating and capital improvement programs to the legislature after consideration of state agency proposals
- Section 26: Alaska Renewable Resources Development Fund

Chapter 11. Renewable Resources Funds.

Article

- 1. Alaska Renewable Resources Development Fund (§§ 37.11.010 — 37.11.040)
- 2. Alaska Renewable Resources Investment Fund (§§ 37.11.050 — 37.11.090)

Article 1. Alaska Renewable Resources Development Fund.

- | Section | Section |
|---|----------------------|
| 10. Alaska renewable resources development fund | 30. Fund utilization |
| 20. Fund authorization level | 40. Fund balances |

Section 26 continued:

Editor's notes. — This article may be unconstitutional under the rationale of *State v. Alex*, Sup. Ct. Op. No. 2488 (File Nos. 5065, 5068, 5142), P.2d (1982), which held that the assessment provisions of the Fisheries Enhancement balance in the Alaska renewable resources permanent fund (AS 37.11.050) reaches the sum of \$250,000,000, AS 37.11.010 — 37.11.040 are repealed and the unexpended and unobligated balance in the Alaska renewable resources

Loan Program Act (AS 16.10.530) dedicated the proceeds of a state tax or license to a special purpose in contravention of Alaska Const., art. IX, § 7.

Section 2, ch. 130, SLA 1974, provides: "On June 30 of the fiscal year in which the development fund (AS 37.11.010) lapses into the general fund." To date, no money has been paid into the Alaska renewable resources permanent fund, and consequently, there is no balance in that fund.

Sec. 37.11.010. Alaska renewable resources development fund. There is established as a separate fund the Alaska renewable resources development fund. Funds apportioned by AS 37.11.020 for deposit in the Alaska renewable resources development fund are to guarantee the enhancement and development of the state's renewable resources. (§ 1 ch 130 SLA 1974)

Sec. 37.11.020. Fund authorization level. Not less than five per cent of the receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land shall be deposited in the Alaska renewable resources development fund. These deposits shall be invested in accordance with AS 37.10.070 (investment of surplus state funds) and the resulting interest shall accrue to the fund. (§ 1 ch 130 SLA 1974)

Sec. 37.11.030. Fund utilization. Appropriations from this fund shall provide funding for capital and operating expenditures for the rehabilitation, enhancement and development of renewable resources programs. Plans for expenditures from this fund shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of the governor's annual budget presentation to the legislature. (§ 1 ch 130 SLA 1974)

Sec. 37.11.040. Fund balances. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be transferred to the Alaska renewable resources investment fund. (§ 1 ch 130 SLA 1974; am § 4 ch 179 SLA 1978)

Article 2. Alaska Renewable Resources Investment Fund.

Section	Section
50. Alaska renewable resources investment fund	70. Utilization of fund income
60. Fund principal	80. Protection of principal
	90. Investments

Cross references. — For the Alaska Resources Corporation, see AS 37.12.
Legislative history reports. — For

letter of intent on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Section 26 continued:

§ 37.11.050

ALASKA STATUTES

§ 37.11.100

Sec. 37.11.050. Alaska renewable resources investment fund. There is established as a separate fund the Alaska renewable resources investment fund. Funds apportioned by AS 37.11.060 for deposit in the investment fund are to be held perpetually in trust for the benefit of both present and future generations of Alaskans. (§ 1 ch 130 SLA 1974; am § 5 ch 179 SLA 1978)

Sec. 37.11.060. Fund principal. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be deposited in the investment fund. These deposits shall be considered fund principal and shall be invested in perpetuity in accordance with AS 37.11.090. (§ 1 ch 130 SLA 1974; am § 6 ch 179 SLA 1978)

Section 27: Renewable resources investment fund--Utilization of fund income.

Sec. 37.11.070. Utilization of fund income. (a) Income received from investment or investment fund principal shall not be held in trust, but shall be used to provide funding for capital and operating appropriations for the rehabilitation, enhancement and development of renewable resources programs. The primary purpose of the programs shall be to restore the renewable resources of the state for common beneficial uses.

(b) Plans for expenditures from fund income shall be prepared in detail by the cooperative efforts of the Departments of Natural Resources, Fish and Game, Environmental Conservation, and Commerce and Economic Development, and shall be submitted by the governor in accordance with the Executive Budget Act (AS 37.07) as part of the governor's annual budget presentation to the legislature. Not less than 80 per cent of the total plan submitted each year shall be apportioned for direct capital expenditures or investments. (§ 1 ch 130 SLA 1974; am § 7 ch 179 SLA 1978)

Sec. 37.11.080. Protection of principal. A transaction involving investment fund principal which results in an actual dollar loss of principal shall be reimbursed in full from fund income before any additional income is expended. (§ 1 ch 130 SLA 1974; am § 8 ch 179 SLA 1978)

Sec. 37.11.090. Investments. Investment responsibility for the Alaska renewable resources investment fund shall reside with the treasury division of the Department of Revenue. The treasury division may invest the Alaska renewable resources investment fund in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule. (§ 9 ch 179 SLA 1978)

Sec. 37.11.100. [Repealed, § 72 ch 113 SLA 1982.]

Section 28: Alaska Resources Corporation--Duties; long range operating and financial plans and budget.

§ 37.12.010

PUBLIC FINANCE

§ 37.12.015

Chapter 12. Alaska Resources Corporation.

Section	Section
10. Alaska Resources Corporation created	70. Powers
15. Purposes	75. Duties
22. Development capital fund	80. Financial assistance
25. Board of directors	85. Eligibility for financial assistance
30. Composition of the board of directors	90. Reports and publications
35. Term of office	95. Operating budget
45. Qualifications of board members	100. Annual audit
50. Quorum and transaction of business	105. Cooperation with other agencies
55. Compensation of board members	110. Tax exemption
60. Executive director; staff	120. Public access to information
65. Conflicts of interest	125. Definitions

Legislative history reports. — For letter of intent on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Sec. 37.12.010. Alaska Resources Corporation created. There is created the Alaska Resources Corporation to carry out the purposes of this chapter. The corporation is a public corporation of the state and an instrumentality of the state within the Department of Commerce and Economic Development, but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state. (§ 3 ch 179 SLA 1978; am § 1 ch 142 SLA 1982)

Cross references. — For Forest Products Producers Assistance Fund within corporation, see § 1, ch. 92, SLA 1930, Temporary and Special Acts; for expiration date of corporation, see AS 44.66.010(a)(7).

Effect of amendments. — The 1982

amendment substituted "Alaska Resources Corporation" for "Alaska Renewable Resources Corporation" in the first sentence and "Department of Commerce and Economic Development" for "Department of Revenue" in the second sentence.

Sec. 37.12.015. Purposes. The purposes of the corporation are to

- (1) facilitate the rehabilitation, enhancement, and development of the state's resources so as to strengthen and diversify the state economy;

- (2) provide development capital for the establishment and expansion of small enterprises in resource industries in the state in ways that enhance private capital investment; and

- (3) strengthen and diversify the state's economy by the establishment and expansion of small enterprises that are self-supporting and that may

Section 28 continued: Alaska Resources Corp.

§ 37.12.020

ALASKA STATUTES

§ 37.12.030

- (A) develop underutilized state resources and reduce the state's dependence on oil and gas;
 - (B) reduce the seasonality of employment in the state;
 - (C) offer employment opportunities for unemployed state residents;
 - (D) provide additional tax revenues to the state government and to local governments;
 - (E) increase exports from the state or reduce imports into the state;
- or
- (F) provide new products or services not previously available in the state. (§ 3 ch 179 SLA 1978; am § 2 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Sec. 37.12.020. Allocation. [Repealed, § 33 ch 142 SLA 1982.]

Sec. 37.12.022. Development capital fund. The development capital fund is established in the corporation, consisting of money or assets appropriated or transferred to the corporation, and payments of principal and interest on loans and equity investments made by the corporation. The development capital fund shall be used to finance projects that qualify for assistance under this chapter, and to pay the operating expenses of the corporation. If money remains in the development capital fund after financing projects that qualify for assistance under this chapter and after paying the operating expenses of the corporation, the money shall be invested by the corporation under AS 37.10.070(a). (§ 3 ch 142 SLA 1982)

Sec. 37.12.025. Board of directors. A board of director corporation is established as its governing body. (§ 3 ch 179 SLA 1978; am § 4 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "directors" for "trustees."

Sec. 37.12.030. Composition of the board of directors. The board consists of four members with business, lending, or investment experience appointed by the governor and the commissioner of commerce and economic development or the commissioner's designee. The board shall annually elect a chairman from among its members. (§ 3 ch 179 SLA 1978; am § 5 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Editor's notes. — Section 34, ch. 142, SLA 1982, provides: "The initial terms of members of the Board of Directors of the Alaska Resources Corporation appointed

by the governor under AS 37.12.030 as amended in sec. 5 of this Act shall be one member serving one year, one member serving two years, one member serving three years, and one member serving four years. Initial members of the Board of

Section 28 continued: Alaska Resources Corp.

37.12.035

PUBLIC FINANCE

§ 37.12.050

Directors of the Alaska Resources Corporation shall be appointed within 30 days from the effective date of this Act (July 1, 1982). The Board of Trustees of the Alaska Renewable Resources Corporation serves as an interim Board of Directors of the Alaska Resources Corporation until the

initial Board of Directors of the Alaska Resources Corporation is appointed by the governor. The Board of Trustees of the Alaska Renewable Resources Corporation is dissolved on appointment of the initial Board of Directors of the Alaska Resources Corporation."

Sec. 37.12.035. Term of office. The members of the board shall be appointed for terms of four years, and they may be reappointed. Terms of members appointed by the governor shall be staggered. The governor shall immediately appoint a member to fill a vacancy in the membership of the board for the unexpired term. (§ 3 ch 179 SLA 1978; am § 6 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "of trustees" following "board" in the first sentence, inserted "of members appointed by the governor" in the second sentence, and rewrote the third

sentence, which formerly read, "The initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years."

Sec. 37.12.040. Removal and vacancies. [Repealed, § 33 ch 142 SLA 1982.]

Sec. 37.12.045. Qualifications of board members. (a) No person may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position, or employment, whether elective or appointive, except as a member of the armed forces of the United States or the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.050. Quorum and transaction of business. (a) Three members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

(b) The board may meet and transact business by electronic media if (1) public notice of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location; (2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and (3) copies of pertinent reference materials, statutes, regulations, and audio-visual materials are reasonably available to participants and to the public. A meeting by electronic media as provided in this subsection has the same legal effect as a meeting in person. (§ 3 ch 179 SLA 1978; am § 7 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment designated the former provisions of this section as subsection (a), sub-

stituted "Three members" for "Two members" at the beginning of that subsection, and added subsection (b).

Chapter 28 continued: Alaska Resources Corp.

§ 37.12.055

ALASKA STATUTES

§ 37.12.070

Sec. 37.12.055. Compensation of board members. Members of the board receive \$200 for each day spent on official business of the corporation, and are entitled to per diem and travel expenses authorized by law for state boards and commissions under AS 39.20.180. (§ 3 ch 179 SLA 1978; am § 8 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Sec. 37.12.060. Executive director; staff. (a) The board shall employ an executive director to administer the corporation in accordance with this chapter, and to perform other duties that the board may prescribe. The executive director serves at the pleasure of the board and may not be a member of the board. The board determines the salary of the executive director.

(b) The executive director may, with the approval of the board, select and employ staff. The executive director and staff are in the exempt service under AS 39.25. (§ 3 ch 179 SLA 1978; am § 9 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote the provisions of the former first sentence as subsection (a), designated the former second and third sentences as subsection (b), deleted "addi-

tional" preceding "staff" and "as necessary" following "staff" in the first sentence of present subsection (b), and substituted "staff" for "all employees of the board" in the second sentence of subsection (b).

Sec. 37.12.065. Conflicts of interest. (a) Members of the board are subject to the provisions of AS 39.50.

(b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, the member or employee shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest. (§ 3 ch 179 SLA 1978; am § 10 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "of trustees" following "board" in subsection (a).

Sec. 37.12.070. Powers. In carrying out the corporate powers of the corporation, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the corporation;
- (4) enter into any agreements necessary to the exercise of its powers and functions;

Section 28 Continued: Alaska Resources Corp.

§ 37.12.070

PUBLIC FINANCE

§ 37.12.070

(5) accept grants from and contract with the federal government and the state or its political subdivisions and to that end comply with the provisions of federal, state, or local programs where necessary, except that it may not enter into any agreements whereby any permanent state or local government position is funded or partially funded in connection with a project;

(6) accept grants and loans from other sources than those in (5) of this section to be held and used for the purposes of the corporation;

(7) appear in behalf of the corporation before boards, commissions, departments, or other agencies of municipal, state, or federal government;

(8) acquire, hold, use, lease, sell, or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in it;

(9) hold, as a means of securing the providing of financial assistance, patents, copyrights, trademarks, royalties, or any other evidences of protection or exclusivity issued under the laws of the United States or any state or nation;

(10) prepare, publish, and distribute technical studies, reports, bulletins and other materials it considers appropriate;

(11) invest in projects that are economically viable and are or are expected to become income-producing by buying stock or other equity, by purchasing secured and unsecured debt of any priority, and debt with flexible repayment schedules and royalty and profit sharing agreements, but investments may not be made at below market rates;

(12) *[Repealed, § 33 ch 142 SLA 1982.]*

(13) adopt regulations governing the exercise of its corporate powers;

(14) *[Repealed, § 33 ch 142 SLA 1982.]*

(15) do all acts and things necessary or desirable to carry out the purposes of the corporation.

(16) *[Repealed effective June 30, 1984]* provide funds to the Alaska Council on Science and Technology, to be awarded and administered in the manner prescribed by AS 44.21.241 — 44.21.255 when the funds are to be expended to accomplish a corporate purpose under AS 37.12.015. (§ 3 ch 179 SLA 1978; am §§ 2, 8 ch 56 SLA 1979; am Executive Order No. 48, § 2 (1981); am §§ 11, 33 ch 142 SLA 1982)

Effect of amendments. — The 1979 amendment added paragraph (16).

The 1981 amendment substituted "AS 44.21.241 — 44.21.255" for "AS 44.19.181 — 44.19.189" in paragraph (16).

The 1982 amendment rewrote paragraph (11) which formerly read: "invest, in such form as it considers appropriate, in projects which are economically viable and income-producing," and repealed para-

graphs (12) and (14), which read, respectively: "provide grants for projects having broad public application which do not have direct income-producing potential" and "deposit funds, or invest surplus funds through the treasury division of the Department of Revenue which may invest in any investment authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule."

Section 28 continued: Alaska Resources Corp.

§ 37.12.075

ALASKA STATUTES

§ 37.12.080

~~Sec. 37.12.075~~ Duties. In carrying out the purposes of this chapter the board shall

(1) provide financial assistance for resource projects that the board finds will accomplish the purposes of the corporation as set out in AS 37.12.015;

(2) keep minutes of each meeting of the board and send a certified copy of the minutes to the governor and the Legislative Budget and Audit Committee;

(3) annually prepare long-range operating and financial plans and the budget for the next fiscal year;

(4) monitor approved projects for compliance with this chapter and provide operational and performance evaluations of projects receiving financial assistance;

(5) before an investment is made in a resource project by the corporation, prepare written findings on the project that include a consideration of the expectation of return from the project and the risk involved in undertaking the project. (§ 3 ch 179 SLA 1978; am § 12 ch 142 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote this section.

Sec. 37.12.080. Financial assistance. (a) In providing financial assistance, the board shall

(1) consider the proposals of qualified applicants only after the applicant has submitted a detailed proposal in the form prescribed by the board; no assistance may be approved by the board unless it finds, in writing, that

(A) the proposed project, if successful, will further the purposes of the corporation as set out in AS 37.12.015;

(B) the application contains an adequate plan for project implementation, including, when applicable, a complete business, financial and marketing plan for commercial activities;

(C) sufficient capital is not available from other sources on reasonable terms;

(D) *[Repealed, § 33 ch 142 SLA 1982.]*

(E) the applicant demonstrates that sufficient technical and business expertise to accomplish the objectives of the proposed project is available;

(F) all costs, including additional governmental cost, associated with and ancillary to the project and future obligations generated by the project have been identified, including any necessary operating, maintenance, or other support costs for the life of the project;

(G) *[Repealed, § 33 ch 142 SLA 1982.]*

(2) use the financial mechanism most appropriate to the conditions of the applicant and the proposed resource project and which will most effectively utilize the funds available;

Section 29: Permanent Fund Corporation--Corporation Budget

Section 30: Land Disposal Bank--submission by commissioner of an appropriation necessary for disposal of state land contained in the governor's request to the legislature.

Article 2. Land Availability for Private Use.

Section	Section
20. Land disposal bank	35. Criteria for program selection
21. Disposal of municipal grant land entitlements	40. Availability of university land
25. Variety of uses	45. Survey and subdivision
30. Land availability programs	50. Access to private use areas
	55. Access through private use areas

Sec. 38.04.020. Land disposal bank. (a) The commissioner shall establish a land disposal bank containing state land classified for disposal into private ownership.

(b) The land disposal bank does not include

(1) land nominated for selection or selected by a municipality to satisfy a general grant land entitlement under AS 29.18.201 — 29.18.213;

(2) land retained in state ownership for multiple-use management;

(3) land where less than a fee simple title has been conveyed;

(4) land retained in state ownership under an enactment of the legislature or by the governor or a state agency under authority of law.

(c) Land to be retained in state ownership may be classified by the commissioner into multiple-use management categories under AS 38.05.300. Land outside a municipality to be retained in state ownership consists of land classified for retention in state ownership by the commissioner by July 1, 1985. Land conveyed to the state by the federal government that is to be retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership or selected by the municipality under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

(d) On January 15 of each year, the commissioner shall report to the legislature on the status of land in the land disposal bank under the following categories:

(1) [Effective July 1, 1984] land suitable for homestead disposal;

(2) land suitable for subdivision disposal;

(3) land suitable for agricultural, commercial, or industrial disposal; and

(4) land suitable for other purposes.

(e) The commissioner shall annually submit to the governor an appropriation request necessary for the disposal of state land in the land disposal bank that shall be included in the budget submitted to the legislature by the governor. For each fiscal year, the request shall include an estimate of the amount necessary

(1) [Effective July 1, 1984] for survey and disposal of land proposed to be made available for homestead staking, with the general location of the land;

Section 30 Continued: Land Disposal Bank

(2) for survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;

(3) for the survey and disposal of land proposed to be offered as subdivisions, with the general location of the land;

(4) for preliminary feasibility studies, engineering design work, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting board under AS 29.33.150; if an accurate determination of the amounts necessary for access roads or capital improvements cannot be made at the time the estimate is submitted, a schedule for obtaining the estimates, constructing the access roads or capital improvements, and disposing of the land shall be submitted;

(5) for identification of land that will be proposed for disposal under this subsection in future fiscal years.

(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market for state land in the different regions of the state. If the state land is in or adjacent to municipalities or unincorporated communities, the assessment shall be developed in consultation with the municipalities or unincorporated communities. The assessment must include a survey of the supply of privately owned land offered for sale, municipal land for which a disposal plan has been completed, and federal land available for sale, lease, or permit for specific activities. The assessment of the market for state land shall be based on an analysis of the amount of private, municipal, and federal land available for disposal on terms equivalent to those used in comparable state land disposal programs and shall include the length of time land remains on the market before it is sold. The assessment must include findings regarding the amount and general location of state land, in addition to land offered by private landowners or available from a municipal government or the federal government, that is necessary to meet the statewide demand for at least five fiscal years immediately after the year in which the assessment is made. The assessment must also state the general location of land proposed for disposal in the next fiscal year and recommendations for the method of disposal under which the land will be offered to the public.

(g) After July 1 of each year, the commissioner shall direct the expenditure of money appropriated for the disposal of land in response to requests made under (e) and (f) of this section for the following:

(1) [Effective July 1, 1984] Land designated as suitable for homestead disposal shall be classified and surveyed under this chapter and AS 38.05 and made available for staking and lease under AS 38.09.

(2) Land designated as suitable for subdivision disposal shall be surveyed, subdivided, classified, and disposed of as follows:

(A) up to 80 percent of the parcels shall be sold under the lottery sale procedures established in AS 38.05.057 and 38.05.065;

(B) at least 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120; and

(C) at least an additional 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120 except that, notwithstanding AS 38.08.040(b), parcels offered under this subparagraph shall be offered by lottery under AS 38.05.057.

Section 30 Continued: Land Disposal Bank

(3) Land designated agricultural, commercial, industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057.

(h) Individual parcels disposed of in subdivisions may not exceed five acres unless the commissioner determines that a larger size is necessary to comply with zoning ordinances or to permit the design of a viable subdivision because of topographical features, soil conditions, on-site sewage disposal requirements, or water drainage or supply considerations that are unique to the subdivision.

(i) Nothing in this section prevents the disposal of other land by the commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of remote cabin permits under AS 38.05.079, AS 38.08.010 — 38.08.120, or other law.

(j) A person or an agency of the state may nominate land retained in state ownership for inclusion in the land disposal bank or may nominate land in the land disposal bank for retention in state ownership. The commissioner shall hold public hearings semiannually to take nominations under this subsection. A transfer of land from retention in state ownership to the land disposal bank or from the land disposal bank to retention in state ownership shall be accomplished through a classification order under AS 38.05.300 and with notice under AS 38.05.345. The commissioner shall make a written determination within six months after receipt of a nomination if he determines that land nominated will not be classified or reclassified as requested.

(k) The commissioner may withdraw from the land disposal bank state land that has been offered for disposal but not conveyed within five years after inclusion in the land disposal bank. State land withdrawn from the land disposal bank under this section must be reclassified under AS 38.04.065. (§ 5 ch 181 SLA 1978; am § 11 ch 85 SLA 1979; am § 4 ch 113 SLA 1981; am § 2 ch 90 SLA 1983; am §§ 2 — 4 ch 103 SLA 1983)

Section 30 continued: Land Disposal Bank

Revisor's notes. — In the first sentence of subsection (g), the words "(e) and" were added preceding "(f) of this section" and in the third sentence of subsection (j), the word "with" was added preceding "notice under" by the revisor of statutes pursuant to AS 01.05.031.

Effect of amendments. — The 1979 amendment rewrote this section.

The 1981 amendment rewrote this section.

The first 1983 amendment, effective July 23, 1983, in subsection (c), deleted the former second sentence and substituted "July 1, 1985" for "July 1, 1983" at the end of the present second sentence.

The second 1983 amendment, effective July 1, 1984, substituted "homestead" for "remote parcel" in paragraphs (d)(1), (e)(1), and (g)(1) and substituted "AS 38.09" for "AS 38.05.077" at the end of paragraph (g)(1).

Editor's notes. — See Editor's notes following the chapter analysis.

Until July 1, 1984, subsections (d), (e) and (g) read as follows: "(d) On January 15 of each year, the commissioner shall report to the legislature on the status of land in the land disposal bank under the following categories:

"(1) land suitable for remote parcel disposal;

"(2) land suitable for subdivision disposal;

"(3) land suitable for agricultural, commercial, or industrial disposal; and

"(4) land suitable for other purposes.

"(e) The commissioner shall annually submit to the governor an appropriation request necessary for the disposal of state land in the land disposal bank that shall be included in the budget submitted to the

"(2) Land designated as suitable for subdivision disposal shall be surveyed, subdivided, classified, and disposed of as follows:

"(A) up to 80 percent of the parcels shall be sold under the lottery sale procedures established in AS 38.05.057 and 38.05.065;

"(B) at least 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120; and

"(C) at least an additional 10 percent of the parcels shall be disposed of as homesites under AS 38.08.010 — 38.08.120 except that, notwithstanding AS

legislature by the governor. For each fiscal year, the request shall include an estimate of the amount necessary

"(1) for survey and disposal of land proposed to be made available for remote parcel staking, with the general location of the land;

"(2) for survey and disposal of land to be offered as agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the general location of the land;

"(3) for the survey and disposal of land proposed to be offered as subdivisions, with the general location of the land;

"(4) for preliminary feasibility studies, engineering design work, and construction of access roads and capital improvements required by municipal subdivision ordinance or regulation of the platting board under AS 29.33.150; if an accurate determination of the amounts necessary for access roads or capital improvements cannot be made at the time the estimate is submitted, a schedule for obtaining the estimates, constructing the access roads or capital improvements, and disposing of the land shall be submitted;

"(5) for identification of land that will be proposed for disposal under this subsection in future fiscal years.

"(g) After July 1 of each year, the commissioner shall direct the expenditure of money appropriated for the disposal of land in response to requests made under (e) and (f) of this section for the following:

"(1) Land designated as suitable for remote parcel disposal shall be classified and surveyed under AS 38.04.005 — 38.04.910 and AS 38.05.005 — 38.05.370 and made available for staking and sale under AS 38.05.077.

38.08.040(b), parcels offered under this subparagraph shall be offered by lottery under AS 38.05.057.

"(3) Land designated agricultural, commercial, industrial, or suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057."

Legislative history reports. — For adoption of the Free Conference Committee letter of intent on AS 38.04.020(a) as repealed and reenacted in House Bill No. 66 (ch. 85, SLA 1979), see 1979 House Journal, pp. 1330 — 1333, 1355; 1979 Senate Journal, pp. 1120 — 1124.

Section 31: Old Age & Survivors Insurance--Federal territorial agreement; political subdivision pro rata shares.

Chapter 30. Insurance and Supplemental Employee Benefits.

Article

1. Old Age and Survivors Insurance (§§ 39.30.010 — 39.30.080)
2. Group Life and Health Insurance (§§ 39.30.090 — 39.30.100)
3. Special Hazard Insurance (§ 39.30.130)
4. Supplemental Employee Benefits on Withdrawal from Social Security (§§ 39.30.150 — 39.30.180)

Article 1. Old Age and Survivors Insurance.

Section

10. Federal territorial agreement
20. Contributions by employees
30. Plans for coverage of employees of political subdivisions
40. Deposits and withdrawals

Section

50. Administrative costs
60. Rules and regulations
70. Studies and reports
80. Definitions

Sec. 39.30.010. Federal territorial agreement. (a) The director of finance, with the approval of the governor, may on behalf of the territory enter into an agreement with the Federal Security Administrator, consistent with AS 39.30.010 — 39.30.080, for the purpose of extending the benefits of the federal old age and survivors insurance system to employees of the territory or a political subdivision with respect to services specified in the agreement which constitute employment.

(b) The agreement may contain provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions which the parties agree upon, but, except as may be otherwise required under the Social Security Act as to the services to be covered, the agreement shall provide in effect that

(1) benefits will be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though the services constituted employment within the meaning of Title II of the Social Security Act;

(2) the territory will pay to the Secretary of the Treasury, as may be prescribed under the Social Security Act, contributions with respect to wages equal to the sum of the taxes which would be imposed by §§ 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act;

(3) the agreement shall be effective with respect to services in employment covered by the agreement performed from the date specified in it or, as to services to which the agreement is extended by a modification to it, from the date specified in the modification;

(4) all services which constitute employment and are performed in the employ of the territory by employees of the territory shall be covered by the agreement; and

(5) all services which (A) constitute employment, (B) are performed in the employ of a political subdivision of the territory, and (C) are covered by a plan which conforms to the agreement and is approved as set out in AS 39.30.030 shall be covered by the agreement. (§ 3 ch 95 SLA 1951; am § 1 ch 125 SLA 1951; am § 1 ch 89 SLA 1957)

Section 31 continued: Old Age & Survivors Insurance

Revisor's note. — This section gave the territory the legal authority to enter into an agreement extending the coverage of the federal Social Security Act to employees of the territory. The agreement was entered into on September 26, 1951, and is continued in effect by § 2, art. XV of the state constitution continuing contracts of the territory and making the state legal successor to the territory. Since the agreement is in effect, the term "territory" has not been changed to "state" in this section. However, in the following sections which relate to the continuing coverage of the agreement, the change from "territory" to "state" has been made.

Section 7, Chapter 58, SLA 1979, provided for an election to decide if the state should withdraw from the federal Social Security System. The election was held in September, 1979, and the state employees voted to withdraw. Withdrawal from the federal Social Security System

was subsequently accomplished. Consequently, the agreement in this section no longer has any application to employees of the state.

Cross reference. — For the supplemental benefits program which replaces Social Security for state employees, see 39.30.150 — 39.30.180.

Am. Jur. 2d and ALR references. — 70 Am. Jur. 2d, Social Security and Medicare, § 1 et seq.

Judicial questions regarding federal Social Security Act and state legislation adopted to set up "state plan" contemplated by it, 100 ALR 697; 106 ALR 243; 108 ALR 613; 109 ALR 1346; 118 ALR 1220; 121 ALR 1002.

Construction and application of state social security or unemployment compensation act as affected by terms of a federal act or judicial or administrative rulings thereunder, 139 ALR 892.

Sec. 39.30.020. Contributions by employees. (a) An employee whose services are covered by an agreement under AS 39.30.010 shall pay for the period of coverage, into the state treasury, contributions equal to the amount of tax which would be imposed by sec. 1400 of the Federal Insurance Contributions Act if the services constituted employment within the meaning of that act.

(b) The contribution shall be collected by deducting the amount of the contribution from wages. Failure to make deduction does not relieve the employee from liability for the contribution.

(c) If more or less than the correct amount of the contribution is paid or deducted, an adjustment or, if adjustment is impracticable, a refund shall be made without interest, in the manner prescribed by the department. (§ 4 ch 95 SLA 1951; am § 1 ch 64 SLA 1968; am § 80 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "an" for "a state" at the beginning of subsection (a), and, deleted the former second sentence of that subsection as it appears in the main pamphlet.

Editor's notes. — Section 1400 of the Federal Insurance Contribution Act is presently contained in 26 U.S.C. § 3101.

Sec. 39.30.030. Plans for coverage of employees of political subdivisions. (a) A political subdivision of the state may submit for approval by the department a plan for extending the benefits of Title II of the Social Security Act to its employees. A plan and an amendment to the plan shall be approved by the department if it finds that the plan or amendment

(1) conforms with the requirements prescribed in regulations of the department;

(2) conforms with the requirements of the Social Security Act and with the agreement entered into under AS 39.30.010;

(3) provides that services which constitute employment and are performed in the employ of the political subdivision by employees are covered by it;

(4) specifies the source from which the funds necessary to make the

Section 31 continued: Old Age and Survivors Insurance

payments required by (d) and (e) of this section are expected to be derived and contains reasonable assurance that the source will be adequate for the purpose;

(5) provides for those methods of administration of the plan by the political subdivision which the department finds are necessary for the proper and efficient administration of the plan;

(6) provides that the political subdivision will make reports which the department requires, and will comply with requirements of the department or the Federal Security Administrator to assure the correctness and verification of the reports; and

(7) authorizes the department to terminate the plan in its entirety in its discretion if it finds that there is a failure to comply substantially with a provision in the plan at the time and upon the notice and conditions provided by regulations of the department which are consistent with the Social Security Act.

(b) The department may not refuse to approve a plan submitted by a political subdivision under (a) of this section, and may not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected.

(c) A political subdivision which has an approved plan shall pay contributions into the state treasury at the rates specified in the agreement and at the time which the department prescribes by regulation.

(d) A political subdivision required to make payments under (c) of this section may, in consideration of the employee's retention in, or entry into, employment after March 23, 1951, impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, not exceeding the amount of tax which would be imposed by § 1400 of the Federal Insurance Contributions Act if the services constituted employment within the meaning of that act, and may deduct the amount of this contribution from his wages. Contributions so collected shall be paid into the state treasury in partial discharge of the liability of the political subdivision or instrumentality under (1) of this section. Failure to deduct the contribution does not relieve the employee or employer of liability for it.

(e) A delinquent payment due under subsection (c) of this section, with interest at the rate of six per cent a year, may be recovered by action against the political subdivision liable for it or may, at the request of the department, be deducted from any other money payable to the political subdivision by a department or agency of the state. (§ 5 ch 95 SLA 1951; am §§ 2, 3 ch 64 SLA 1968)

Sec. 39.30.040. Deposits and withdrawals. (a) Unless otherwise provided by law, there shall be deposited in the state treasury in trust all contributions collected under AS 39.30.010 — 39.03.080.

(b) The department has power, authority and jurisdiction over this trust and may perform all acts whether or not specifically designated which are necessary to the administration of this trust.

(c) This trust shall be used and administered exclusively for the

Section 31 continued: Old Age & Survivors Insurance

purpose of AS 39.03.010 — 39.30.080 of this chapter. Withdrawals may be made only for (1) payment of amounts required to be paid to the secretary of the treasury by an agreement entered into under AS 39.30.010; (2) payment of the refunds provided for in AS 39.30.020 (c); and (3) refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality. (§ 6 ch 95 SLA 1951; am § 4 ch 64 SLA 1968)

~~Sec. 39.30.050.~~ **Administrative costs.** The department shall collect from each participating political subdivision its respective pro rata share of the expenses incurred in the administration of AS 39.30.010 — 39.30.080. The amounts collected from participating political subdivisions, together with money appropriated by the state for covering the state's share of administrative costs, shall be deposited in an FICA administration fund and are not allocable to any other purpose. Expenditures from the FICA administration fund shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature. At the time of preparation of the governor's annual budget the department shall review the FICA administration fund and adjust the rate of assessment on political subdivisions so as to prevent the accumulation of more money than is needed to administer AS 39.30.010 — 39.30.080. (§ 7 ch 95 SLA 1951; am § 1 ch 13 SLA 1960)

Cross reference. — For provisions as to special funds, see AS 37.05.155.

Sec. 39.30.060. Rules and regulations. The department shall adopt and publish the rules and regulations not inconsistent with AS 39.30.010 — 39.30.080 which it finds necessary or appropriate to the efficient administration of its functions under AS 39.30.010 — 39.30.080. (§ 8 ch 95 SLA 1951)

Sec. 39.30.070. Studies and reports. The department shall make studies concerning the problem of old age and survivors insurance protection for employees of [THE STATE AND] local governments and their instrumentalities and concerning the operation of agreements made and plans approved under AS 39.30.010 — 39.30.080 and shall submit a report to the legislature at the beginning of each regular session covering the administration and operation of AS 39.30.010 — 39.30.080 during the preceding year, including recommendations for amendments to AS 39.30.010 — 39.30.080 which it considers proper. (§ 9 ch 95 SLA 1951; am § 81 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment preceding "local governments" near the beginning of the section. preceding "the state and" deleted.

Sec. 39.30.080. Definitions. In AS 39.30.010 — 39.30.080
(1) "department" means the Department of Administration;
(2) "employee" includes an officer of a political subdivision of the state;

Section 31 continued: Old Age & Survivors Insurance

(3) "employment" means any service performed by an employee of a political subdivision of the state, except (A) service which in the absence of an agreement entered into under AS 39.30.010 — 39.30.080 would constitute "employment" as defined in the Social Security Act; or (B) service which under the Social Security Act may not be included in an agreement between the state and the Federal Security Administrator entered into under AS 39.30.010 — 39.30.080;

(4) "Federal Insurance Contributions Act" means subchapter A of chapter 9 of the Federal Internal Revenue Code as amended;

(5) "Federal Security Administrator" includes an individual to whom the Federal Security Administrator has delegated any of his functions under the Social Security Act with respect to coverage under that act of employees of states and territories and their political subdivisions;

(6) "political subdivision" includes an instrumentality of the state or of a political subdivision, or of the state and a political subdivision, but only if the instrumentality is a juristic entity legally separate and distinct from the state or the political subdivision and only if its employees are not, by virtue of their relation to the juristic entity, employees of the state or the political subdivision;

(7) "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620, cited as the "Social Security Act," (including regulations and requirements issued under it), and its amendments;

(8) "wages" means remuneration for employment, including the cash value of remuneration paid in any medium other than cash, except that "wages" does not include that part of remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act. (§ 2 ch.95 SLA 1951; am §§ 82, 83 ch 59 SLA 1982)

Effect of amendments. -- The 1982 amendment substituted "a" for "the state or" in paragraph (2), and, deleted "the state, or" preceding "a political subdivision" in paragraph (3).

Section 32: Outdoor Recreational, Open Space, and Historic Properties Development Fund. Plans for expenditures from the fund.

Section 33: Motor Fuel Tax--Tax on transfers or consumption of motor fuel and expenditure of proceeds.

Chapter 40. Motor Fuel Tax.

Section	Section
10. Tax on transfers or consumption of motor fuel and expenditure of proceeds	60. Separate invoices
30. Refund for nonhighway use	70. Refund warrants
35. Other refunds and credits	80. Examination of books and records
50. Refund claim by affidavit	85. Preservation of books and records
	100. Definitions

Chapter 33 continued: Motor Fuel Tax

Collateral references. — 71 Am. Jur. 2d, State and Local Taxation, §§ 616 — 634; 53 Am. Jur. 2d, Licenses, §§ 30, 46 — 58.

State tax on or in respect of goods shipped in interstate commerce to consignee for sale on consignor's account without previous sale or order for purchase, 4 ALR2d 244.

Loading or unloading interstate freight in performance of obligation resting upon one other than interstate carrier as inter-

state commerce as regards local taxation, 10 ALR2d 651.

State taxation of motor carriers as affected by commerce clause, 17 ALR2d 421.

Power of legislature to remit, release, or compromise tax claim, 28 ALR2d 1425.

Financial hardship or inability to pay taxes as rendering inapplicable statutes denying remedy by injunction against assessment or collection of tax, 65 ALR2d 550.

Sec. ~~43-4000~~ Tax on transfers or consumption of motor fuel and expenditure of proceeds. (a) There is levied a tax of eight cents a gallon on all motor fuel sold or otherwise transferred within the state, except that

(1) the tax on aviation gasoline is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(b) There is levied a tax of eight cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four cents a gallon,

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon, and

(3) the tax on all aviation fuel other than gasoline is two and one-half cents a gallon.

(c) Every dealer who sells or otherwise transfers motor fuel in the state shall collect the tax at the time of sale, and remit the total tax collected during each calendar month of each year to the department by the last day of each succeeding month. Every user shall likewise remit the tax accrued on motor fuel actually used by the user during each month. If the monthly tax return is timely filed, one percent of the total monthly tax due, limited to a maximum of \$100, may be deducted and retained to cover the expense of accounting and filing the monthly tax return. At the time the remittance is made, each dealer or user shall submit a statement to the department showing all fuel which the dealer or user has distributed or used during the month.

(d) *[Repealed, § 3 ch 166 SLA 1976.]*

(e) Sixty per cent of the proceeds of the revenue from the taxes on aviation fuel, excluding the amount determined to have been spent by the state in its collection, shall be refunded to a municipality owning and operating or leasing and operating an airport in the proportion that the revenue was collected at the municipal airport. All other proceeds of the taxes on aviation fuel shall be paid into a special aviation fuel tax account in the state general fund. The legislature may appropriate funds from this account for aviation facilities.

(f) The proceeds from the revenue from the tax on motor fuel used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax account in the general fund. The legislature may appropriate from this account for water and harbor facilities.

Section 33 continued: Motor Fuel Tax

(g) The proceeds of the revenue from the tax on all motor fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway fuel tax account in the state general fund. The legislature may appropriate funds from it for expenditure by the Department of Transportation and Public Facilities directly or as matched with available federal-aid highway money for maintenance of highways, construction of highway projects and ferries included in the program provided for in AS 19.10.150, including approaches, appurtenances and related facilities and acquisition of rights-of-way or easements, and other highway costs including surveys, administration, and related matters. All departments of the state government authorized to spend funds collected from taxes imposed by this chapter shall perform, when feasible, all construction or reconstruction projects by contract after the projects have been advertised for competitive bids, except that, when feasible, arrangements shall be made with political subdivisions to carry out the construction or reconstruction projects. If it is not feasible for the work to be performed by state engineering forces, the commissioner of transportation and public facilities may contract on a professional basis with private engineering firms for road design, bridge design, and services in connection with surveys. If more than one private engineering firm is available for the work the contracts shall be entered into on a negotiated basis.

(h) All motor fuel tax receipts shall be paid into the general fund and distributed to the proper accounts in the general fund. Valid motor fuel tax refund claims shall be paid from the highway fuel tax account in the general fund.

(i) Within 30 days after the legislature convenes the Department of Transportation and Public Facilities shall submit an annual budget covering anticipated revenues and their expenditure, for the consideration and approval by the legislature. The budget shall cover all money collected or anticipated to be collected under this chapter for the year following the adjournment of each regular session of the legislature.

(j) The proceeds from the tax on motor fuel used in snow vehicles and, unless a tax refund is applied for under AS 43.40.040, other internal combustion engines not used in or in conjunction with a motor vehicle licensed to be operated on public ways shall be deposited in a special nonpublic highway use account in the general fund. The legislature may appropriate from this account to the Department of Transportation and Public Facilities for trail staking and shelter construction and maintenance.

(k) The tax on the transfer or consumption of motor fuel provided for in this section does not apply to liquified petroleum gas.

(l) If a dealer has a reasonable belief at the time of sale or transfer that fuel that is sold or transferred is not to be used as motor fuel, the dealer need not collect the motor fuel tax. If the tax is not collected, the dealer shall obtain a certificate of use from the buyer or transferee stating that the fuel that has been or will be purchased or received is not intended for use as motor fuel. The department may not collect the motor fuel tax from a dealer for fuel for which a certificate of use has been properly obtained under this subsection. A certificate of use is not required for fuel for any domestic purpose in a single or multiple unit private dwelling, including mobile homes, or for fuel which is at least

Section 33 continued: Motor Fuel Tax

10 percent alcohol by volume. An annual certificate of use is required for all other exemptions listed under AS 43.40.100(2), except certificate of use needs under AS 43.40.100(2)(K) will be determined by the department. The dealer shall retain a copy of each certificate of use obtained under this subsection for examination or audit on request by the department. The form of a certificate of use may be prescribed by

regulation adopted by the department. (§ 48-5-2 ACLA 1949; am § 1 ch 80 SLA 1951; am § 1 ch 47 SLA 1955; am §§ 1, 2 ch 27 SLA 1957; am § 1 ch 134 SLA 1957; am § 1 art VI title II ch 152 SLA 1957; am § 2 art V title III ch 152 SLA 1957; am § 2 ch 124 SLA 1959; am §§ 1, 2 ch 20 SLA 1960; am § 1 ch 150 SLA 1960; am § 1 ch 110 SLA 1961; am § 1 ch 136 SLA 1961; am §§ 1 — 3 ch 131 SLA 1962; am § 1 ch 130 SLA 1968; am § 10 ch 143 SLA 1968; am §§ 1, 2 ch 216 SLA 1968; am §§ 1 — 3 ch 158 SLA 1970; am § 3 ch 58 SLA 1971; am §§ 1, 2 ch 124 SLA 1971; am §§ 2, 3 ch 125 SLA 1971; am §§ 1 — 3 ch 153 SLA 1972; am § 3 ch 166 SLA 1976; am §§ 1, 2 ch 116 SLA 1977; am § 4 ch 82 SLA 1982; am §§ 1, 2 ch 87 SLA 1983)

Cross references. — For civil penalty imposed for failure to file a return or report, or pay the full amount of a tax, or a portion or a deficiency of the tax, see AS 43.05.220.

Effect of amendments. — The 1982 amendment added subsection (l).

The 1983 amendment, in subsection (c), added the present third sentence and deleted "motor" preceding "fuel" in the last sentence, and in subsection (l), added the present fourth and fifth sentences.

OPINIONS OF ATTORNEY GENERAL

The purpose of the dedication of the taxes on motor fuels contained in subsection (g) of this section is public highways. 1959 Op. Att'y Gen., No. 9.

A proposed alteration going to the geographical area of expenditure rather than to the special purpose of a dedication, does not contravene the constitution. 1959 Op. Att'y Gen., No. 9.

The 1957 amendment to this section, which reduced the tax on motor fuel used in commercial fishing crafts for purposes of commercial fishing from five cents to two cents per gallon, effected no change in

the dedication inasmuch as the reduction in the tax was coupled with an exemption from the refund of three cents per gallon formerly allowed to users of fuel in commercial fishing craft for commercial purposes. Nothing has been done which increased or decreased the dedication. 1959 Op. Att'y Gen., No. 14.

The Civil Air Patrol is exempt from taxation under the Alaska Motor Fuel Oil Tax Act because it is an instrumentality of the federal government, but volunteer members of Civil Air Patrol are not exempt. 1961 Op. Att'y Gen., No. 26.

Section 34: Accounting of financing received as a result of the salmon enhancement tax.

Section 35: Capital city development oversight committee est. Annual budget.

Article 3. Capital City Development Oversight Committee.

Section	Section
220. Capital city development oversight committee established	260. Meetings
230. Membership	270. Powers
240. Term of membership	280. Staff
250. Vacancies	290. Duties

Section 35 continued: Capital City Development Oversight Comm.

Sec. 44.07.220. ~~Capital City Development Oversight Committee established.~~ The Capital City Development Oversight Committee is established as a permanent interim committee of the legislature beginning with the Eleventh Legislature. The establishment of the committee recognizes the need of the legislature for review and oversight of the development of the new capital city. (§ 2 ch 143 SLA 1978)

Sec. 44.07.230. Membership. The committee is composed of eight members: the president of the senate, the speaker of the house, the chairmen of the finance committees, the chairmen of the state affairs committees, and one member appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman. (§ 2 ch 143 SLA 1978)

Sec. 44.07.240. Term of membership. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the committee, his committee membership terminates on the date of filing. (§ 2 ch 143 SLA 1978)

Sec. 44.07.250. Vacancies. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member. (§ 2 ch 143 SLA 1978)

Sec. 44.07.260. Meetings. The committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature. (§ 2 ch 143 SLA 1978)

Sec. 44.07.270. Powers. The committee has the power to

- (1) organize and adopt rules for the conduct of its business;
- (2) hold public hearings;
- (3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;

Section 35 continued: Capital city development oversight comm.

- (4) prepare and distribute reports, memoranda, or other materials;
- (5) review all reports of the corporation and of the Legislative Budget and Audit Committee relating to the corporation;
- (6) make recommendations for legislative action relating to the capital relocation and planning and development of the new capital city. (§ 2 ch 143 SLA 1978)

Sec. 44.07.280. Staff. The legislative audit division and the legislative finance division shall provide audits, reports and analyses requested by the committee. The committee may hire and determine the salary of the staff it considers necessary within the limit of the budget approved by the legislature. (§ 2 ch 143 SLA 1978)

Sec. 44.07.290. Duties. The committee shall report to the legislature annually. The report shall include any considerations the committee considers relevant to the planning and development of the new capital city and to the performance of the capital city development corporation. (§ 2 ch 143 SLA 1978)

Article 4. General Provisions.

Section	Section
300. Executive Budget Act	340. Limitation of liability
310. Annual budget	350. Termination of corporation
320. Annual report	360. Definitions
330. Conflicts of interest	

Sec. 44.07.300. Executive Budget Act. The corporation is subject to the provisions of the Executive Budget Act (AS 37.07). (§ 2 ch 143 SLA 1978)

Sec. 44.07.310. Annual budget. The board of directors shall review and approve, by a two-thirds vote of members of the board, the annual operational and capital program and budget for the corporation and may, by two-thirds vote, and in accordance with AS 37.07 amend the program and budget. No corporate funds may be expended or money borrowed except in accordance with appropriations. (§ 2 ch 143 SLA 1978)

Sec. 44.07.320. Annual report. The corporation shall submit to the governor and the Legislative Budget and Audit Committee, within three months after the end of the corporation's fiscal year, a complete financial report audited by a certified public accountant or firm of certified public accountants, which shows

- (1) its receipts and expenditures during its fiscal year;
- (2) its assets and liabilities at the end of its fiscal year, including a schedule of its leases and mortgages and the status of reserve, special and other funds;
- (3) the progress of fulfillment of the financial and economic projections contained in the general development and specific development plans; and
- (4) its operations and accomplishments and any material problems encountered in implementing the development plan. (§ 2 ch 143 SLA 1978)

Section 35 continued: Capital city development oversight comm.

Sec. 44.07.330. Conflicts of interest. (a) No director or employee of the corporation or member of the advisory board may participate in any decision of the corporation in which he has a direct or indirect financial interest.

(b) The executive director and members of the board of directors are subject to AS 39.50. (§ 2 ch 143 SLA 1978)

Sec. 44.07.340. Limitation of liability. No person executing a note of the corporation is liable personally on such obligations by reason of their issuance. (§ 2 ch 143 SLA 1978)

Sec. 44.07.350. Termination of corporation. (a) Unless a determination is made under (b) of this section to extend the existence of the corporation, the existence of the corporation shall terminate

upon the occurrence of any of the following events: (1) the board's determination that the general development plan has been substantially implemented; (2) the attainment by the capital city of a population of 37,500 as certified by the Department of Community and Regional Affairs; or (3) the arrival of the year 1994.

(b) Not later than one year before the anticipated occurrence of any of the events in (a) of this section, the board of directors shall recommend to the legislature and the legislature shall determine whether the corporation shall continue in existence beyond the occurrence of the event. (§ 2 ch 143 SLA 1978)

Sec. 44.07.360. Definitions. In this chapter, unless the context requires otherwise,

(1) "capital city area" or "capital city site" means the area specified in AS 29.18.520;

(2) "capital city" means the municipality created under AS 29.18.510;

(3) "corporation" means the Alaska Capital City Development Corporation created by AS 44.07.010,

(4) "advisory board" means the Development Advisory Board created under AS 44.07.100;

(5) "development program" means one or more works, undertakings or improvements (surface, subsurface, or overhead) or buildings constructed, reconstructed, or improved or to be constructed, reconstructed, or improved by the corporation within the capital city area, under one or more specific development plans, as the corporation considers necessary or appropriate;

(6) "facility" means any utility or infra-structure plant and any system or improvement, whether used or useful for residential, educational, commercial, institutional, community, private, semi-private or public purposes, including, without limitation, facilities such as roads and public transportation systems, parks and recreational facilities, water, sewer and drainage systems, electric, telephone and other energy or communications systems or utilities and health, educational and community facilities, and private facilities such as housing, commercial and industrial enterprises, in each case of whatever kind or character and under whatever form of ownership, and all necessary real or personal property;

Section 35 continued: Capital city development oversight comm.

(7) "general development plan" means a general land use and land development plan for the capital city area which contains the elements set out in AS 44.07.120;

(8) "municipality" means a home rule or general law city or borough including but not limited to the capital city and a unified municipality organized under AS 29.68.240 — 29.68.440;

(9) "private firm" means any private person, partnership, corporation, foundation, trust, or other business entity whether organized for profit or not for profit;

(10) "public agency" means any officer, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state, the United States, or any municipality;

(11) "specific development plans" means the various plans for the implementation of each phase or segment of the general development plan. (§ 2 ch 143 SLA 1978)

Section 36: Working capital fund.

Chapter 74. Management and Disposition.

Article

1. Equipment Maintenance and Operation of Supply Depots (§§ 44.74.010, 44.74.040)
2. Transfer to Political Subdivisions (§ 44.74.070)

Article 1. Equipment Maintenance and Operation of Supply Depots.

Section

10. Working capital fund
40. Records of working capital fund

Sec. 44.74.010. Working capital fund. A working capital fund is established in the state treasury for the use of the Department of Transportation and Public Facilities. (§ 1 ch 120 SLA 1960; am § 13 ch 49 SLA 1963; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 "Transportation and Public Facilities" for amendment substituted "Department of "Department of Highways."

Sec. 44.74.020. Use of fund. The department shall use the fund for necessary expenses resulting from the centralization of equipment maintenance and for the operation of supply depots. (§ 1 ch 120 SLA 1960)

Sec. 44.74.030. Revenues for equipment rental, repairs, and supplies. Receipts from rental fees and surcharges to the various departments for equipment rental, repair and supplies shall be deposited in the working capital fund. The departments of the state government shall include in their annual budgets the rental fees, equipment repairs and supplies. (§ 2 ch 120 SLA 1960)

Section 36 continued: Working capital fund

Sec. 44.74.040. Records of working capital fund. The Department of Transportation and Public Facilities shall maintain cost accounting records showing the income and expenses of the fund. The department shall submit a report on the operation of the fund to the governor and the legislature at the time of submission of the departmental budget. (§ 3 ch 120 SLA 1960; am § 14 ch 49 SLA 1963; am Executive Order No. 39, § 11 (1977))

Effect of amendments. — The 1977 "Transportation and Public Facilities" for amendment substituted "Department of" "Department of Highways."

Sec. ~~44.74.050~~ Additions and replacements to fund. Additions to capital equipment, replacements of capital equipment or improvements paid from the working capital fund are subject to annual appropriation by the legislature and shall be detailed in the executive budget. (§ 3 ch 120 SLA 1960)

Sec. 44.74.060. Governor's approval of rates. Rental and surcharge rates charged by the department are subject to annual review and approval by the governor. (§ 3 ch 120 SLA 1960)

Article 2. Transfer to Political Subdivisions.

Section	Section
70. Transfer of equipment to political subdivisions	80. Unsaleable period 90. Transfer of civil defense property

Article 2. Transfer to Political Subdivisions.

Section
70. Transfer of equipment to political subdivisions

Sec. 44.74.070. Transfer of equipment to political subdivisions. (a) The commissioner of transportation and public facilities may transfer directly to a political subdivision of the state, including a village organized under Federal Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), the title to automotive and construction equipment which can be used in the maintenance or construction of roads and airports.

(b) No equipment may be transferred unless it is in excess of known state requirements in the major senatorial district and is intended for use, to some extent, to maintain and construct airports or roads.

(c) The commissioner may transfer equipment which in the commissioner's judgment is not economically repairable or is obsolete, without regard to (b) of this section.

(d) The commissioner shall determine how the equipment is to be allocated in the best interests of the state. The commissioner may adopt necessary regulations to implement AS 44.74.070 and 44.74.080. (§ 1 ch 106 SLA 1962; am §§ 102 — 104 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "commissioner of transportation and public facilities" for "commissioners of the department of public works and the department of highways" in subsection (a). The amendment also substituted "commissioner" for "commissioners" once in subsection (c) and twice in

subsection (d), substituted "his" for "their" in subsection (c), and substituted "adopt" for "promulgate" in subsection (d).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Section 36 continued: Working capital fund

Sec. 44.74.080. Unsaleable period. A political subdivision which receives title to automotive and construction equipment may not sell it for a period of two years after the date title is transferred. (§ 2 ch 106 SLA 1962)

Sec. 44.74.090. Transfer of civil defense property. (a) Title to personal property received by the state from the federal government for civil defense purposes may be transferred to political subdivisions of the state which have qualified civil defense organizations by the Department of Public Safety with the approval of the state director of civil defense and the approval of the Department of Administration. This section is applicable only when title to the property is held by the Department of Public Safety.

(b) As a condition of title transfer, the political subdivision is responsible for compliance with the federal and state restrictions on the property.

(c) No transfer of title to property shall be made which is not in compliance with federal law and with the terms of the agreement under which the property has been made available to the state by the federal government. (§ 1 ch 39 SLA 1965)

Section 37: Alaska Power Authority

Section 38: Alaska Municipal Bond Bank

Section 39: Comprehensive Employment and Training Act

Sec. ~~44.99.009~~ Governor as prime sponsor. (a) The governor is authorized to participate as a prime sponsor in the Comprehensive Employment and Training Act of 1973 (P.L. 93-203) as amended. He may delegate his functions as a prime sponsor to such other state agency as, in the exercise of his discretion, he sees fit.

(b) The governor, or the state agency to which he has delegated his functions, may adopt regulations necessary to carry out the functions as a prime sponsor.

(c) The governor shall submit as part of the annual budget submission to the legislature a complete program budget for state participation in the Comprehensive Employment and Training Act of 1973 (P.L. 93-203) as amended. (§ 1 ch 174 SLA 1975)

Editor's note. — This section derives from AS 44.19.581 and was renumbered by the revisor under AS 01.05.031.

Section 40: Civil penalties for discharges of oil.

Sec. 46.03.758. Civil penalties for discharges of oil. (a) The legislature finds that

(1) recent information discloses that the discharge of oil may cause significant short and long-term damage to the state's environment. Even minute quantities of oil released to the environment may cause high mortalities among larval and juvenile forms of important commercial species, may affect salmon migration patterns, and may otherwise degrade and diminish the renewable resources of the state;

Section 40 continued: Civil penalties for discharges of oil.

(2) the exact nature and extent of oil pollution can be neither documented with certainty nor precisely quantified on a spill-by-spill basis; however, in light of the magnitude of harm which may be caused by oil discharges, and the vital importance of commercial, sport and subsistence fishing, tourism, and Alaska's natural abundance and beauty to the economic future of the state, and its quality of life, it is the judgment of the legislature that substantial civil penalties should be imposed for the discharge of oil, in order to provide a meaningful incentive for the safe handling of oil and to insure that the public does not bear substantial losses from oil pollution for which, because of its subtle, long-term or unquantifiable nature, compensation would not otherwise be received; and

(3) the handling of oil in large quantities is a hazardous undertaking which poses a significant threat to the economy and environment of the state, which can be substantially reduced only by the taking of rigorous safety precautions involving considerable expense; conversely, persons handling oil in smaller amounts pose a correspondingly lower risk to the economy and environment of the state, and are capable of safe oil handling practices at correspondingly lower costs; in order to provide an incentive which is effective, but not punitive, it is necessary and appropriate that the assessment of civil penalties for discharges of small quantities of oil be left for case-by-case judicial determination, while insuring, through the penalty provisions of this section, that the handling of oil in large quantities occurs in a manner which will not impair the renewable resources of the state.

(b) No later than the 10th day after the convening of the Second Session of the Tenth Alaska Legislature, the department shall submit to the legislature regulations establishing the following schedule of fixed penalties for discharges of oil:

(1) Subject to (3) of this subsection, the penalties for the following categories of receiving environments may not exceed

(A) \$10 per gallon of oil which enters an anadromous stream or other freshwater environment with significant aquatic resources;

(B) \$2.50 per gallon of oil which enters an estuarine, intertidal or confined saltwater environment; and

(C) \$1 per gallon of oil which enters an unconfined saltwater environment, public land or freshwater environment without significant aquatic resources.

(2) For discharges of oil which are caused by the gross negligence or intentional act of the discharger, or when the court finds that the discharger did not take reasonable measures to contain and clean up the discharged oil, the penalty shall be determined by multiplying the penalty established under (1) of this subsection by a factor of five.

(c) Regulations adopted under (b) of this section shall become effective 60 days after submission to the legislature, unless disapproved by a special concurrent resolution introduced in either house, and concurred in by a majority of the members in joint session within 60 days of the submission of the regulations. The department may periodically revise regulations adopted under (b) of this section. Revised regulations shall be submitted to the legislature no later than 10 days after the convening of the appropriate regular session of the legislature, and are subject to disapproval as specified in this subsection.

Section 40 continued: Civil penalties for discharges of oil.

(d) The schedule shall vary according to the toxicity, degradability and dispersal characteristics of the oil. The schedule shall also vary according to the sensitivity and productivity of the receiving environment. Variations under this subsection may be by subcategories of receiving environments, specific receiving environments, or both. The maximum penalties established in (b) of this section shall apply to discharges in the most sensitive and productive of receiving environments within each category of receiving environment, and the penalty shall decrease for less productive or sensitive receiving environments.

(e) Upon the effective date of regulations adopted under (b) of this section, if a discharge of oil in excess of 18,000 gallons not permitted under applicable state and federal law occurs within the territorial jurisdiction of the state, or into or upon the adjacent outer continental shelf of the state, the following persons, in addition to the person causing or permitting the discharge, are jointly and severally liable to the state, in a civil action, for the full amount of penalties established in the regulations, or \$100,000,000, whichever is less,

(1) if the discharge occurs from any commercial or industrial facility other than a vessel or offshore platform, the owner, lessee (or permittee), and operator of the facility;

(2) if the discharge occurs from a vessel,

(A) the owner and operator of the vessel; and

(B) the owner of the oil carried as cargo on the vessel at the time the vessel was loaded, if the loading occurred within the territorial jurisdiction of the state, or at a deepwater port or other offshore storage facility adjacent to the state; however, if the owner of the oil temporarily transfers ownership of the oil to another person, and the transfer has the purpose or effect of evading the vicarious liability imposed by this section, the transferor will be considered the owner of the oil for the purposes of this subsection; and

(3) if the discharge occurs from an offshore platform, the lessee (or permittee) of the tract or acreage upon which the platform is situated, and the operator of the platform.

(f) The court shall deduct from the penalties for which the person charged is liable under (e) of this section that amount of oil which was removed from the environment as a result of a cleanup operation undertaken in conformity with applicable state and federal law, unless the oil was removed by an agency of state, local or federal government. The dispersal of oil through the use of chemical agents or other means is not considered removal for the purposes of this subsection. The court may estimate the amount of oil removed.

(g) Except as provided in (f) and (g) of this section, the entire penalty specified in the regulations shall be imposed, except that a person who discharges oil into a receiving environment may demonstrate, by a preponderance of evidence, that mitigating circumstances relating to the effects of the discharge would make imposition of the full penalty inappropriate. In determining whether mitigating circumstances exist, the court shall recognize that scientific knowledge pertaining to oil spills is very limited and if there is insufficient knowledge either to predict a base case or to show mitigating circumstances varying from that base case, the administratively established schedule of penalties shall apply. If mitigating circumstances are proven by a preponderance of the evidence, the court may reduce or totally eliminate the penalty, in accordance with the purposes of this section.

Section 40 continued: Civil penalties for discharges of oil.

(h) A person otherwise liable for penalties under (e) of this section is not liable if he demonstrates, by a preponderance of the evidence, that the discharge occurred solely as a result of

(1) an act of God;

(2) an act of a third person with intent to cause a discharge, unless the third person is a person with whom the person charged is made jointly and severally liable under (e)(1) — (3) of this section;

(3) a negligent or intentional act of the State of Alaska or the United States; or

(4) an act of war.

(i) Notwithstanding AS 46.03.875, a person liable under this section is not also liable for the discharge of oil under AS 46.03.760(a). A person causing or permitting a discharge of oil of 18,000 gallons or less not permitted under applicable state or federal law is liable for that discharge under the penalty provisions of AS 46.03.760(a); however, the court may impose a penalty of less than \$500 for the discharge.

(j) The court may reduce the penalty imposed under this section if the person charged demonstrates, by a preponderance of the evidence, that the discharge was caused solely by a negligent act of a third person, unless the third person is a person with whom the person charged is made jointly and severally liable under (e)(1) — (3) of this section.

(k) Penalties received by the state under this section shall be deposited in the general fund and credited to a special account called the "oil spill mitigation account". The legislature may annually appropriate from the oil spill mitigation account a sum equivalent to the amount of penalties received under this section for the calendar year preceding the legislative session in which the appropriation is made, the appropriations to be made for the purpose of restoring and enhancing environments affected by oil pollution, including but not limited to the funding of aquaculture projects.

(l) As used in this section,

(1) "adjacent outer continental shelf" means that portion of the outer continental shelf which would be within the territorial jurisdiction of the state if its boundaries were extended seaward to the outer margin of the outer continental shelf;

(2) "confined saltwater environment" means a bay, sound or other partially enclosed saltwater body in which flushing through tidal or current action is significantly restricted;

(3) "discharge of oil" means the entry of oil into or upon the water or public land of the state (except oil discharges into an enclosed and impervious oil spill containment area), regardless of causation;

(4) "intertidal" means the ocean area between highest high water and lowest low water of tidal action;

(5) "offshore platform" means an offshore structure, whether floating or temporarily or permanently secured to the floor of the ocean or other water body, which is used primarily for the exploration for or production of oil or natural gas;

(6) "oil" means petroleum, crude oil, and any substance refined from petroleum or crude oil;

Section 40 continued: Civil penalties for discharges of oil.

(7) "operator" means the person who, through contract, lease, sublease or otherwise, exerts general supervision and control of activities at the facility; the term includes, by way of example and not limitation, prime or general contractors, the master of a vessel (and his employer), or any other person who, through himself, his agents, or contractors, undertakes the general functioning of the facility;

(8) "vessel" means any form or manner of watercraft, whether or not capable of self-propulsion, except offshore platforms. (§ 1 ch 129 SLA 1977; am §§ 1-3 ch 128 SLA 1978; am § 110 ch 59 SLA 1982)

Cross references. — For provision that actions brought under this section may be brought directly against insurers or other persons providing evidence of financial responsibility, see AS 46.04.040(e).

Effect of amendments. — The 1978 amendment substituted the language beginning "and appropriate that the assessment of civil penalties" for "that the civil penalties imposed reflect a balance between the gravity of the discharge, the magnitude of risk, and the level of incentive necessary to induce safe operations" at the end of paragraph (3) of subsection (a), inserted "in excess of 18,000 gallons" near the beginning of the introductory paragraph of subsection (e), and added the second sentence of subsection (i).

The 1982 amendment, effective May 28, 1982, deleted "notwithstanding AS 30.25.20(b)" preceding "penalties" at the beginning of subsection (k).

Editor's notes. — Section 3, ch. 129, SLA 1977, provides: "If the application of AS 46.03.758 to discharges of oil solely into and upon the adjacent outer continental shelf of the state is held invalid, the application of that section to discharges of oil into and upon the water or public land within the territorial jurisdiction of the state is not affected by that holding. This severability provision is intended to clarify and not limit the severability provision of AS 01.10.030."

The schedule of civil penalties required by (b) of this section may be found at 18 AAC 510 — 18 AAC 600. The effective date (referred to in (e) of this section) of the regulation adopting the schedule is April 19, 1978.

AS 30.25.220, referred to in subsection (k), was repealed by § 11, ch. 116, SLA 1980. For provisions concerning oil pollution control, see AS 46.04.

Section 41: Governor's council for the handicapped and gifted.

Section 42: Effective date= date of amendment to the Constitution of Alaska providing for a biennial budget.

HB 485
FR-3

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

RECEIVED
8-17-83

STATE CAPITOL
JUNEAU ALASKA 99811
7465-3800

COPY

MEMORANDUM

August 15, 1983

SUBJECT: Biennial state budget
(Work Order No. 13-1508)

TO: Representative Robert H. Bettisworth

FROM: Keith B. Levy *KBL*
Legislative Counsel

In drafting your bill request establishing a biennial budget, I neglected to point out to you that Article IX, Section 12 of the Constitution of the State of Alaska requires an annual budget:

The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.

Thus, your bill is technically in violation of this constitutional provision since it requires the governor to submit a budget every two years rather than annually.

This problem can be resolved in one of two ways. The first would be to amend Article IX, Section 12 of the constitution to provide for a biennial budget rather than an annual one. A more simple solution would be to redraft your bill to provide for a biennial budget, but require the governor to submit an amended budget every other year covering the second fiscal year of the biennial budget. In that way, the constitutional requirement would be met since the governor would be submitting a budget annually, but the bulk of the budget process would be completed biennially.

If you have any questions or if you would like a redraft of your bill, please feel free to contact me.

KBL:lmb
L2/049



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

November 25, 1983

MEMORANDUM

TO: Representative Rob Bettisworth

FROM: David Teal
Legislative Analyst

RE: Biennial Budgeting
Research Request 83-239

This memorandum responds to your request for information on states that have a budget cycle longer than one year. The Council of State Governments (CSG) and the National Conference of State Legislatures (NCSL) provided much of the information required to fulfill your request. Because the information received from these sources is concise and limited to the question at hand, only the highlights are reviewed in this memorandum. Material provided by the CSG and NCSL are attached.

In the early 1940s, only four states had annual legislative sessions. There are now only nine states with legislatures that do not convene annually. The budget process is the primary reason that many states have converted to annual sessions.

Attachment A classifies states according to the length of their budget cycle and the time between legislative sessions. As noted above, nine states have biennial sessions and operate under a two-year budget cycle. Of the 41 states with annual legislative sessions, 29 have a one-year budget cycle. The remaining 12 states are on a two-year budget cycle. No state has a budget cycle longer than two years. The 12 states that have annual sessions and biennial budgets have the potential for full legislative review of the budget each year. All of the nine states with biennial sessions have some procedure for amending the budget during the biennium. Procedures for amending the budget include special legislative action, delegation of authority to a legislative committee or emergency board, and executive branch transfers between agencies or programs.

The Council of State Governments and the Public Affairs Research Council of Louisiana surveyed states to obtain their views on annual versus biennial budgeting. Highlights from those surveys are listed below and the published survey results are attached to this memorandum.

Representative Bettisworth
November 25, 1983
Page 3

Another factor complicating the analysis is that one cannot simply look at the constitution or statutes of the states to determine what actually occurs. For example, the Minnesota constitution specifies biennial legislative sessions and a biennial budget cycle. In practice, the Minnesota legislature meets annually and only a few appropriations are made for the biennium. In Vermont, an annual or biennial budget cycle is at the discretion of the governor. These complicating factors and the resultant difficulty in classifying certain states accounts for the inconsistent presentation of data in Attachments A, B and D.

I have attached applicable statutes from Florida, Montana, North Dakota and Oregon. According to the Book of the States, these are the four states with a biennial budget cycle that do not make separate appropriations for each year of the biennium.¹ The statutes specify information required by the legislature. Sections 291.322-336 of the Oregon statutes discuss that state's method of amending the budget during the biennium.

* * *

I hope you find this information useful and informative. If you would like additional information on a particular state or particular system of budgeting, please contact the agency.

DT

Attachments A) Biennial and Annual Budgeting (NCSL)
 B) Results of PAR survey on Annual vs. Biennial State
 C) Annual or Biennial Budgets? (CSG)
 D) 1982-83 Book of the States (pages 276-279)
 E) State Statutes
 Florida: Chapter 216, 1982 Supplement
 Montana: Chapter 666, 1983 Session Laws
 North Dakota: Chapter 54-44
 Oregon: Chapter 291.208-385

¹Texas is classified by the NCSL (in Attachment A) as making appropriations for the biennium. Texas statutes on the budget process are lengthy and are not attached to this memorandum.

ATTACHMENT A

Prepared by Fiscal Affairs Program
NATIONAL CONFERENCE OF STATE LEGISLATURES
1125 17TH Street Suite 1500 Denver, CO 80202
303/292-6600

Since 1969, ten states have changed their budgeting cycle. Hawaii, Vermont and, most recently, Florida, have all changed from annual to biennial budgets. In that same time, Connecticut, Idaho, Illinois, Missouri and Nebraska have all gone from biennial to annual budgets. Indiana experimented with annual operating budgets in fiscal years 1975-76 and 1976-77, but operated with a biennial capital and highway budget. It returned to full biennial budgeting in 1977.

Currently, 29 states have annual budgets and, of course, annual legislative sessions. Another nine states have biennial budgets with biennial sessions, and thus lack any opportunity for annual changes or revisions. (The exception is Oregon, whose joint Ways and Means committees meet during the interim as the Emergency Board, a constitutional board with authority over supplemental appropriations, federal funds, and transfers.) The remaining twelve states have biennial budgets, but meet annually. This last group has some review of the budget annually, but it varies from full reviews to occasional amendments. Only North Carolina, North Dakota, Oregon, Texas, Washington and Wyoming actually make appropriations for the full biennium rather than by fiscal year, and North Carolina, Washington and Wyoming review the budget for possible changes annually.

ANNUAL LEGISLATIVE SESSIONS AND ANNUAL BUDGETS

Alabama	Delaware	Maryland	New Jersey	South Carolina
Alaska	Georgia	Massachusetts	New Mexico	South Dakota
Arizona	Idaho	Michigan	New York	Tennessee ¹
California	Illinois	Mississippi	Oklahoma	Utah
Colorado	Kansas	Missouri	Pennsylvania	West Virginia
Connecticut	Louisiana	Nebraska	Rhode Island	

BIENNIAL LEGISLATIVE SESSIONS AND BIENNIAL BUDGETS

Arkansas	Nevada	North Dakota ³
Kentucky	New Hampshire	Oregon ³
Montana	North Carolina ²	Texas ³

ANNUAL LEGISLATIVE SESSIONS AND BIENNIAL BUDGETS

Florida	Maine	Virginia
Hawaii	Minnesota ¹	Washington ²
Indiana	Ohio	Wisconsin
Iowa	Vermont ¹	Wyoming ²

All state fiscal years begin on July 1 except for Alabama (October 1), Michigan (October 1), New York (April 1) and Texas (September 1).

Footnotes

¹Technically a biennial session, but in practice meets annually.

²Appropriations are made for the biennium, but reviewed annually.

³Appropriations are made for the biennium.

NOTE: Unless otherwise noted, biennial budget states make appropriations for each fiscal year separately.

ATTACHMENT B

PUBLIC AFFAIRS RESEARCH COUNCIL OF LOUISIANA, INC.



300 Louisiana Avenue • P O Box 3118 • Baton Rouge, Louisiana 70821 • Phone (504) 343-9204

April 22, 1982

MEMO TO: Respondents of PAR Survey
FROM: Brian Davie, Research Analyst
RE: Results of PAR Survey on Annual vs. Biennial State Budgeting

Research Council of Louisiana, Inc. (PAR) is a nonpartisan, nonprofit organization which conducts research on state and local government issues in Louisiana. PAR surveyed all states (excluding Louisiana) in early 1982 to obtain the most current information available on the experience and views concerning the issue of annual vs. biennial state budgets. This paper is a tabulation of the results of that survey.

Louisiana Policy

Louisiana's state government has annual legislative sessions (limited to 60 legislative days during an 85 calendar day period) and an annual budget. New or increased tax levies are not permitted during regular legislative sessions in odd-numbered years. The state has not changed its annual budget cycle and is not considering a change at this time.

Response Rate from Other 49 States

PAR sent the enclosed questionnaire to state budget officers and legislative chairmen of the budget committees in each house. One followup letter was sent and at least one response was received from all 49 states. The maximum number of responses (3) was received from 23 states (47%), two responses were received from 18 states (37%), and one response was received from 8 states (16%). Budget officers or their representatives responded from 45 states (92%) and legislative chairmen responded from 44 states (90%). The overall response rate was 77%. Following are results of the survey.

States That Have Changed

The remaining survey questions concerned only the 13 states that changed their budget cycles since 1970; results were inconclusive. For the states that changed twice since 1970, the primary reason appeared to be political -- depending on which party controlled the legislature or which cycle the governor strongly advocated and enforced.

PAR classified responses on effects of the change (Question #8) according to whether the comments were positive, negative or indicated no difference. Respondents from the eight states that changed to annual budgets were almost equally divided between the positive and negative effects of the change and several stated there was no difference. The positive effects most often cited for changing to annual budgets were increased evaluation, legislative scrutiny and more accurate revenue estimates; however, an almost equal number of respondents cited the same factors as having a negative effect, mainly because of the compressed time schedule for reviewing an annual budget.

Respondents from the two states that changed to biennial budgets cited no negative effects, but two of the six respondents in those states said there was no difference. The positive effects mentioned included opportunities for increased planning, evaluation and legislative scrutiny.

It is difficult, if not impossible, to determine what effect a change in budget cycles has on increased state spending (Question #9) since so many other factors intervene such as inflation and major policy changes in state programs. Most respondents acknowledged this and qualified their response. The change had no effect on the rate of increased state spending according to 55% of the respondents. The remaining responses were equally divided between those who thought the change did increase state spending and those who did not know.

Similarly, respondents were almost evenly divided about whether the change affected the accuracy of revenue estimates and accumulation of surplus funds (Question #10).

Which Type Favored by Respondents?

The final survey question provided an opportunity for respondents to comment in general on the issue of annual vs. biennial budgets. Table 2 shows the results of classifying the comments according to which type budget the respondent appeared to favor; again responses were almost equally divided.

TABLE 2. Preferences of Respondents

<u>Preference</u>	<u>Budget Officers</u>	<u>Legislative Leaders</u>	<u>Total</u>
Favor annual budget	5	5	10
Favor biennial budget	6	5	11
Neutral	2	7	9

ATTACHMENT C

Annual

or

Biennial

Budgets ?

The Council of State Governments

ANNUAL OR BIENNIAL BUDGETS?

August 1972
RM-491
Price: \$2.00

The Council of State Governments
Iron Works Pike
Lexington, Kentucky 40505

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FOREWORD

Recent changes in budget procedures in some States have brought renewed attention to the question of whether the process should be an annual or biennial one. The Research Committee of the National Association of State Budget Officers, therefore requested the Council of State Governments to ascertain the reaction of state officials to these changes.

The survey was conducted by means of a questionnaire to ten key executive and legislative officials in each of eleven States. The Council is most grateful to the responding officials for their cooperation and assistance. The report was prepared by Paul Hibberd, Research Associate, under the direction of George A. Bell, Director of Research.

Brevard Crihfield
Executive Director
The Council of State
Governments
Iron Works Pike
Lexington, Kentucky 40505

Introduction

The increasing complexity and mounting problems of state government have triggered many changes in state operations, among these being the shift of legislative sessions to an annual basis rather than biennial. There are now (1972) 33 annual session states plus 3 more whose unlimited biennial sessions extend into the second year, compared with 18 States ten years ago, 10 States twenty years ago, and only 4 States in the early 1940's.

One reason advanced in support of annual sessions has been that state financial and budgetary policies must be reviewed more often than once every two years. This was a predominant factor leading toward annual sessions, as shown by the fact that 9 of the 13 States having annual sessions in 1962 restricted one session every two years primarily to fiscal matters. However, there has been a reversal in this trend, and now a much lower proportion of States - 5 of 33 annual session States, place such limits on sessions.

The felt need for making fiscal decisions annually is still strongly apparent, since most States which have adopted annual sessions have also shifted to annual budgets. However, a few States with annual sessions have not shifted to annual budgets. A further surprising development in view of the trend was the action of Hawaii, which in 1971 shifted to a biennial budget while retaining annual sessions, after having had annual budgets throughout its statehood.

The Hawaii move is one event that has triggered interest among state officials everywhere concerning the advantages and disadvantages of annual versus biennial budgeting, leading to this survey of States which have

made recent shifts. The following questions were asked:

1. What effect has changing from a biennial to an annual budget in your State had on the following:
 - (a) Workload of the budget agency:
 1. Has there been a change in the duties or type of work performed by budget staff?
 2. Has there been a commensurate change in size of budget staff?
 - (b) Workload of other executive agencies (operating agencies; Governor's Office, etc.)
 - (c) Workload of the legislative staff:
 1. Has there been a change in the duties or type of work performed by legislative staff?
 2. Has there been a commensurate change in size of legislative staff?
 - (d) Ability or willingness to undertake planning beyond the budget period:
 - (e) Accuracy of revenue estimates:
 - (f) Ability to meet matching requirements for federal grants in aid:
 - (g) Ability to fully finance programs to carry out the program level the appropriation was designed to meet?
 - (h) On the rate of annual increase in state expenditures
2. When you were on a biennial budget, what procedures (such as use of transfers, emergency appropriation, allotment adjustments, etc.) existed for taking care of changing financial requirements for programs or agencies?
3. What are you able to do under annual budgeting in providing for year to year changes that you could not do under biennial budgets?
4. If the opportunity arose to switch back to biennial budgets, would you favor doing so? Please state reasons.
5. If the switch to biennial budgeting were to be made, what recommendations would you make to assure that legislative and executive controls over program plans and expenditure are not weakened?

The survey covers most States which have recently switched from biennial to annual budgets and have had at least one full biennium under the annual budget system - Florida, Idaho, Illinois, Missouri, Oklahoma, Tennessee, Utah and Vermont. Other States moving to annual budgets such as Connecticut, Nebraska ~~and~~ had not experienced the annual cycle at the time the questionnaire was mailed (fall, 1971.)

Iowa and Georgia have instituted annual legislative sessions while retaining a type of biennial budget and were also surveyed. Indiana's similar shift has occurred too recently for coverage. Hawaii was surveyed

for its shift from annual to biennial budgets. Wisconsin was subsequently added; that State now has annual sessions, and in 1972 completed its first formal off-year budget review process in lieu of an annual budget.

In each of the eight States surveyed which switched from a biennial to an annual budget (above), a questionnaire was sent to ten officials - the Governor, President of the Senate, Speaker of the House, administration/finance officials, budget officers, legislative research directors, legislative fiscal review officers, planning officials, and the chairmen of the appropriations committees. There was, therefore, a possibility for 80 responses. The number of actual responses received was 35, with at least two from each State: two from Tennessee, two from Utah, five from Illinois, six from Idaho, three from Florida, five from Missouri, six from Vermont, and six from Oklahoma. In terms of responding officials the breakdown of answers was: Governors, one; Presidents of Senates, four; Speakers of Houses, four; legislative fiscal review officials, four; chairmen of appropriations committees, six; planning officials, six; administration/finance officials, one; budget officers, six; legislative research directors, three. For purposes of narrating the reported opinions the sole responding administration/finance official was included among the budget officers, and the responses of the Presidents of the Senate and the Speakers of the House were combined and treated as the opinions of legislative leaders.

The questionnaire was also sent to the identical officials in Georgia and Iowa, which changed to annual legislative sessions while retaining biennial budget approaches. These officials were requested to provide their opinions on advantages and disadvantages of not switching to an annual budget cycle.

Finally, the questionnaire was also sent to the same officials in Hawaii, which switched from annual to biennial budgeting. These officials were requested to provide their comments and opinions on the effects of the reverse change from an annual to a biennial cycle. Limiting the usefulness of the original Hawaii responses, according to several officials of the State, was the fact that a full biennium had not yet passed under the new procedure. A followup request to the Hawaiian respondents was sent in June, 1972 to seek further reactions after experience with the new approach during the 1972 session.

In view of the delay in analyzing the responses, the questionnaire was also sent to Wisconsin officials in June, 1972 to ascertain reactions to the budget review process first used in the 1972 session.

Opinions in States Recently Switching to Annual Budgets

The responses of officials in the States which have recently changed from biennial to annual budgets are analyzed in this section. The responses are organized in accordance with the questions asked.

Effect on Workload and Size of the Budget Staff

Budget officers should be in the best position to know whether there has been a change in staff size. According to the seven budget officials who responded, the budget staff was increased in size in three States and remained the same in four. The perception of other officials did not always fit these facts, for in four of the seven States one or more other officials thought the staff had increased when the budget official said it had not (two States) or thought it has not increased when the budget

chief said it had (two States). (See table 1 for summary tabulation).

1. Effect on the size of the Budget Agency:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	1		6		1	8
Legislative Fiscal Review	1		3			4
Chairmen Appropriations Committees	3		2		1	6
Planners	1		1	4		6
Budget Department	3		4			7
Legislative Research	2			1		3
	11		17	5	2	35

In at least one State reporting an increase in staff size, this change was due only in part to annual sessions. Annual sessions were begun at the same time that a major change in budget procedures occurred, including establishment of an analytical staff. the Governor's office and development of program analysis procedures.

With the above indications of a different opinion concerning a factual situation, a difference of opinion is to be expected on the less factual questions which follow.

Legislative leaders expressed doubt whether the workload of the budget agency had increased significantly and whether additional staff was necessary. However, chairmen of the various appropriations committees believed that there was a significant increase in the duties of the budget agency, but not to the point that staff members need be added. One suggestion was that the "off-year" was often not very productive and that the solution to the increased workload was a more concentrated effort each

year. In addition to the above positions, several legislative officials contended that there were insufficient funds to employ additional budget staff members.

Although several executive officials expressed the opinion that there was no change in the duties of the budget agencies, a few budget administrators expounded the adverse effects of the change. Their primary contention was that the switch to an annual budget had left little time to perform various studies for the improvement of organization and operations. For example, one budget director remarked, "the increased workload in terms of budget preparation has left less time to explore substantive issues, and has necessitated restrictions on all other activities." When commenting upon the increased workload of his agency and the inability to add new staff members, another budget official remarked, "instead of additions to staff, such activities as analysis, studies, management services, etc., have been drastically reduced if not altogether eliminated."

2. Effect on the workload of the Budget Agency:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		2	1		4
Chairmen Appropriations Committees	4		1		1	6
Planners	1		1	4		6
Budget Department	4		3			7
Legislative Research	3					3
	16		12	5	2	35

Effect on the Workload of other Executive Agencies

An overwhelming majority of officials responding were of the opinion that the change to an annual budget significantly increased the workload of other executive agencies. In a few instances it was noted that budget operations in all the executive agencies were operating throughout most of the year. One budget official reported that with demands on the individual agencies for program information that was not previously requested, "budgeting has become a full time activity and the days when part time budgeting was possible are gone."

Recognition of this increased workload was not limited to executive officials. Three out of every four legislative officials reported an increased burden on the executive agencies in submitting a budget for their programs annually. One legislative council director remarked that, "probably the most significant aspect of the change (to an annual budget) is an awareness that budgeting is a continuous process the year round, and not just something that takes place at session time."

3. Effect on the workload of other Executive Agencies:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	5		2		1	8
Legislative Fiscal Review	2		1	1		4
Chairmen Appropriations Committees	5		1			6
Planners	1		2	3		6
Budget Department	6		1			7
Legislative Research	3					3
	22		8	4	1	35

Effect on the Workload and Size of the Legislative Staff

The majority of legislative officials felt that the change to an annual budget had no significant effect upon the size or workload of legislative budget staffs already in operation. In two States the statement of the legislative fiscal staff director, who should know, concerning increase in staff was not unanimously supported in the opinions of others. In some States the legislative budget staffs were virtually non-existent under a biennial budget. For example, Vermont had no legislative budget staff until 1970, when an analyst was hired to serve the appropriations committees. Other States in which legislative budget analysis agencies were created at the time of the change to an annual budget cycle attributed those creations directly to other sources, naming the budget change as only an indirect cause.

Most executive officials asserted that they were in no position to express an opinion on the effect of the change to an annual budget upon legislative staffs. Among those who did express an opinion, two out of every three felt that the change had no significant effect upon the size or workload of the staffs.

4. Effect on the Size of the Legislative Staff:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		3			4
Chairmen Appropriations Committees	2		3	1		6
Planners			6			6
Budget Department	2		3	2		7
Legislative Research	2		1			3
	10		21	3	1	35

Effect on Ability or Willingness to Undertake Planning beyond the Budget Period

The opinions expressed on this issue were widely varied among both legislative and executive officials. Two out of every three budget officials took the position that an annual budget cycle had an adverse effect upon the willingness to undertake planning beyond the budget period. Other respondents noted that agencies and departments were reluctant to engage in advance planning to begin with, but that the switch to an annual budget left less incentive to plan beyond the budget period. Some legislative leaders said that legislative desire for long range planning was not shared by executive agencies. One executive official, explaining the slowness of agencies to plan ahead, noted that program planning is an activity "which must be fostered by the Chief Executive as a basic management tool for a reasonable length of time before agencies are even interested in performing the activity."

5. Effect on the workload of the Legislative Staff:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor			1			1
President Senate/Speaker House	3		4		1	8
Legislative Fiscal Review	1		3			4
Chairman Appropriations Committees	3		2	1		6
Planners				6		6
Budget Department	2		3	2		7
Legislative Research	1		2			3
	10		15	9	1	35

A few officials expressed the opinion that longer range planning was one advantage of annual budgeting, but failed to explain the reasoning behind this statement. Some other officials noted that longer range planning was being instituted under planning programming budgeting systems (PPBS) independently of the effect of annual versus biennial cycles.

Also, in two States the answers revealed differences of opinion among officials. For instance, in one State the Speaker, the legislative fiscal officer and the planning official felt that there was an increase in willingness to undertake planning beyond the budget period, while the budget officer thought there was a decrease in that willingness and both the President of the Senate and a committee chairman reported no change, attributing any difference to a recent emphasis on program planning.

6. Effect on the ability or willingness to undertake planning beyond the budget period:

	Increase	Decrease	Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	2	1	3	1	1	8
Legislative Fiscal Review	2		2			4
Chairmen Appropriations Committees	2	1	3			6
Planners	2		1	3		6
Budget Department	3	4				7
Legislative Research	1		1	1		3
	12	7	10	5	1	35

Effect on Accuracy of Revenue Estimates

A majority of the officials felt that a change to an annual budget cycle should, or did, increase the accuracy of revenue estimates. This opinion was held by 16 reporting officials, compared to 4 who thought that accuracy decreased and 10 who felt that there was no change.

Accuracy was presumed to increase because of increased frequency of compiling estimates, and the shorter time interval between making the estimate and realizing the revenue.

7. Effect on the accuracy of Revenue Estimates:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	1	1	2			4
Chairmen Appropriations Committees	6					6
Planners			3	3		6
Budget Department	3	1	2	1		7
Legislative Research	1		2			3
	16	4	10	4	1	35

Effect on Ability to meet Matching Requirements for Federal Grants in Aid

A majority of the state officials took the position that the change to an annual budget increased the ability to meet matching requirements for federal grants in aid. The chief reason for this opinion was the time factor, especially when the federal government is often tardy in appropriating and allocating grants. An annual budget is thought to allow considerably more flexibility if the federal government should significantly alter the amount of money available. One budget director noted that the construction of an annual budget helps avoid the possibility of a special session of the legislature which, when called for fiscal matters, often generates "political stress."

8. Effect on the ability to meet matching requirements for federal grants in aid:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor		1				1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	4					4
Chairmen Appropriations Committees	3		3			6
Planners			3	3		6
Budget Department	5	1	1			7
Legislative Research	1				2	3
	18	3	8	3	3	35

Effect on Ability to Fully Finance Programs to Carry Out the Program Level the Appropriation was Designed to Meet

The majority opinion was that the ability to fully finance programs had been increased by the change to an annual budget. An annual budget, as stated before, appears to be more accurate in predicting revenues. The increased accuracy of estimates increased the ability to fully finance programs, thereby carrying out the program level the appropriations were designed to meet.

Some officials felt that the ability to fully finance programs was not necessarily related to annual or biennial budgets. Their position, as one budget director noted, was that the ability to fully finance programs "speaks to the quality of program projection and revenue estimating and not necessarily for the period during which these events occur."

Some officials recognized the disadvantage of predicting program finance and revenue two years in advance, as opposed to one, but felt that biennial budgeting had other overriding advantages. They suggested

that any problems encountered in fully financing programs during the second year of the biennium could be mitigated by annual sessions where emergency appropriations, transfers, etc., could be enacted.

9. Effect on the ability to fully finance programs to carry out the program level the appropriation was designed to meet:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor	1					1
President Senate/Speaker House	5	1	1		1	8
Legislative Fiscal Review	3		1			4
Chairmen Appropriations Committees	3		2	1		6
Planners	2		1	3		6
Budget Department	4		2	1		7
Legislative Research	1		1	1		3
	19	1	3	6	1	30

Effect on the Rate of Annual Increase in State Expenditures

There is no evident consensus on what effect, if any, the change to an annual budget might have had on the rate of annual increase in expenditures: 16 thought it would result in greater increases than biennial budgets while 12 indicated there would be no change.

One budget director who believed increases would result observed, "biennial budgeting tends to lock the second year in close proximity to the level of the first fiscal year. Annual budgeting permits the entire lobby and pressure effort of the various special interests to come into play." Some indicated that as inflation, program alterations, salary adjustments, etc., are considered annually, the rate of increase must necessarily be greater. One budget director introduced a formula: "the rate of annual increase in state expenditures is inversely proportional to the length of the budgetary period."

Those officials who took the position that the change to an annual budget had no effect on the rate of annual increase in expenditures felt that the rate of increase is dependent upon revenue. They noted that if revenue should increase beyond expectations in the second year of the biennium, alterations in appropriations could be made at that session of the legislature. These increases in appropriations would essentially be equal with any changes that might have been made if there were a new budget in the process of formulation under an annual cycle.

10. Effect on the rate of annual increase in state expenditures:

	Increase	Decrease	No Change	No Opinion	No Answer	Total
Governor	1					1
President Senate/Speaker House	4		3		1	8
Legislative Fiscal Review	3		1			4
Chairmen Appropriations Committees	2		3	1		6
Planners			3	3		6
Budget Department	4		2	1		7
Legislative Research	1			2		3
	15		12	7	1	35

Procedures under Biennial Budgets for Fiscal Adjustments

Operations under biennial budgets had not prevented most States from changing their fiscal plans where necessary. In some cases this was done through legislative action in special session or otherwise, such as emergency, deficiency or supplemental appropriations.

An additional method which was often mentioned as a means of combating unforeseen conditions was the transfer of appropriations from one agency, unit or program to another. Five States reported the utilization

of intra-agency transfer, with three of them additionally inter-agency transfers.

Finally, three States noted the existence of an emergency board which had the power to appropriate from a special account in cases when the legislature was not accessible.

A Switch back from Annual to Biennial Budgets?

Among those States which changed to an annual budget, 75 percent of the legislative officials and 70 percent of the executive officials, (but only 50 percent of the budget officers are included in this majority) were satisfied with the new system, while the remainder in each group favored a return to the biennial budget.

Some of the following reasons were cited by legislative officers for remaining with the new system:

- (1) fewer emergency appropriations;
- (2) "annual budgets tend to strengthen the legislator's role in setting the policy of the state."

Two other reasons, cited by some executive officials, are:

- (1) annual budgeting permits the Governor a more frequent review of agency programs and requires state agencies to develop tighter administrative controls over the spending of public funds,
- (2) "in biennial budgeting immediate correction of the State's budget is not possible, and waiting until the legislature meets 'next time' is the only alternative. When corrections are eventually made the legislature in its alarm may accuse the Governor of mismanagement and the Governor in turn accuse the legislature of irresponsibility."

One legislative official who favored returning to a biennial budget system noted that with annual budgeting there was a tendency to focus legislative attention on the details, which should be the concern of the executive.

Among the executive officials who were dissatisfied with the annual budget cycle some of the reasons cited were the following:

- (1) an annual budget system results in a narrow viewpoint, short time spans for accomplishment, and a vast increase in staff work;
- (2) a biennial budget provides more time for program planning activities;
- (3) "with annual budgets, the top talent of the executive branch is tied up preparing, defending and implementing budgets. This creates a continuous and overlapping cycle which requires preparations for next year's budget to start before information on the operation of the current year's budget can be collected and evaluated."

Expenditure Controls under Biennial Budgets

Since a switch to biennial budgeting would allow the various state agencies to operate for two years without their programs being subjected to fiscal change, respondents were asked what measures should be introduced to assure that legislative and executive controls were not weakened.

Among those suggested by legislative officials were these:

- (1) a strong post-audit division for the evaluation of programs,
- (2) the existence of an interim committee or emergency board to act upon requests to cover deficiencies or emergencies.

Executive officials, especially budget officials, made other suggestions for assuring control, including the following:

- (1) legislative willingness to attend special sessions if a significant imbalance in the budget should arise,
- (2) a requirement that each fiscal year in the biennium should stand alone, and no appropriations be carried forward from one year to the next,
- (3) "greater emphasis be placed upon program evaluation and review in terms of definition or objectives, method of operation and intended results,"

- (4) rather than becoming concerned with details, the legislative fiscal staff "should develop information for policy decisions and directions so that the legislators can decide what services the State should render and determine whether the service is worth the dollars that are required....the legislative branch should give the necessary attention to establishing the goals and policies that will set the directions and shape the future of the government."

Annual Session States with Biennial Budgets

Officials from both Iowa and Georgia pointed out that neither State operates on a strict biennial budget. Rather, the systems in those States might be described as 'modified annual' or 'modified biennial' budgets.

The Georgia constitution provides that a General Appropriations Act shall be passed the first year of the legislative term to cover the next two fiscal years. Any excess funds not expended during the first fiscal year shall lapse and revert to the fund from which they were appropriated. In practice, however, the money provided for the second year of the biennium by the appropriations act is merely a 'dummy appropriation' since it duplicates the first year. At the legislative session in the second year of the term amendments are made to the General Appropriations Act to authorize realistic appropriations for the second fiscal year. Since the executive departments are nevertheless required to present their requests on a two-year basis and the Governor must make his recommendations on a two-year basis, the General Assembly has access to the information to make a reasonable prediction of what funds will be necessary in the second fiscal year.

Prior to 1971, Iowa operated on almost a strictly biennial budget. During those years appropriation bills were drawn which authorized an

identical amount for each year of the biennium. Any departmental appropriations which were not expended during the first fiscal year of the biennium could be carried over and expended during the second fiscal year.

In 1971 a new procedure was put into effect through adoption of a law providing that if the appropriated funds of an agency were not expended during the first fiscal year, the balance would 'revert to the state treasury and to the credit of the fund from which appropriated.' If an agency felt that the funds which would normally have reverted to the state treasury were essential to that agency, an application could be made to the appropriations committees for a hearing.

One legislative official expressed the opinion that the most significant factor in preventing Iowa from changing to an annual budget was the added burden of repeating the entire budget process each year. Although several bills had been introduced in the State which would provide for an annual budget, this time factor seems to have been the foremost cause of defeat.

Questionnaire responses from the two States totalled six, but only three were susceptible to tabulation for any one question. Thus, the following discussion is based on limited responses.

Among both Georgia and Iowa officials there were differing opinions whether a change to an annual budget cycle would have any effect on the workload or size of executive budget agencies. One budget officer noted that the only alteration might be less emphasis on analysis work and more on projection. It was suggested that the workload of other executive agencies would increase as budget preparation became a 'full-time' project.