

3104

ALASKA

SSA

LEGISLATURE

HB

578

-

HB

687

COMMITTEE FILES

1983-1984

8672

3/4



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

HB 578

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

June 25, 1983

MEMORANDUM

TO: Representative Jerry Ward

FROM: Betty Barton *BB*
Legislative Analyst

RE: Employee Protection Laws
Research Request No. 83-163

You have asked for information about state and federal statutes that provide protection to employees who disclose information regarding an employer's violation of federal, state, or local laws. During the 1970s, there was growing public concern regarding the need for improved ethical and professional standards, including support for public disclosure of any unethical or illegal practices of governmental and private organizations. Individuals increasingly called for measures which would ensure the protection from reprisal of those employees, known as "whistle blowers," who publicly criticize their organizations for perceived wrongdoing.

Legal Background

American case law traditionally has provided some limited protections from administrative punishment to whistle blowers in public employment. According to a report prepared by the Congressional Research Service, the law generally was shaped in 1892 by Judge Wendell Holmes who ruled in McAuliffe v. Mayor of New Bedford (155 Mass. 216; 29 N.E. 519) that while there is a constitutional right to free speech, there is no constitutional right to public employment.¹ This position was modified in 1968 in Pickering v. Bd. of Ed. (391 U.S. 563) when the U.S. Supreme Court held that a public worker cannot be deprived of his or her constitutional rights as a condition of employment.

Some statutory protections are also found at the federal level. For example, federal employees may testify before Congress about the agencies in which they work. The right to petition Congress is established in 5 U.S.C. 7102; and 18 U.S.C. 1505 prohibits interfering with a worker who is giving testimony to Congress. However, the law does not extend to employees who disclose information to bodies other than Congress.

¹ Judith H. Parris, Government Division, Congressional Research Service, The Library of Congress, Major Issues System, "Whistle Blowers' in the Executive Branch," Issue Brief Number IB78006, January 26, 1978.

Memo/ House Research 6/25/83

There are also several notable limitations placed on an employee's freedom to disclose information. Federal officials, for example, may not disclose classified data unless specifically authorized by the Freedom of Information Act or other U.S. statutes.

Federal Legislation Establishing Employee Protection

In 1978, Senate Bill 2640 was enacted.² This bill, which was the culmination of President Carter's Personnel Management Project, provided an extensive reorganization of the U.S. Civil Service Commission. Included in the bill was an employee protection provision; the primary purpose of which was to "safeguard employees, tenured and nontenured, who 'blew the whistle' on illegal or improper official conduct."

As the bill was initially introduced, it prohibited Civil Service employers from dispensing any sanctions against employees who publicly disclosed a violation of a law, rule, or regulation (assuming that the disclosure in itself did not constitute a violation of the law). The bill was subsequently broadened so that an employee would be protected in disclosing any information that reflected significant mismanagement, flagrant waste of funds; abuse of authority, or a substantial and specific danger to the health and safety of the public.³ The bill was also modified so that agencies would not be encouraged to establish unwarranted internal "rules or regulations" against disclosure. As amended, only those disclosures that are specifically exempted by statute, e.g., substantive data pertaining to national intelligence, are prohibited.

Under the statute, the head of each executive branch agency has responsibility for overseeing compliance with relevant civil service laws.

² Public Law 95-454. A copy of the statute is located in Appendix A.

³ According to the legislative history of the bill, the intent of Congress was to limit protection to specific and significant impairment of public safety. As an example, the legislative history states that a general criticism by an employee that the Environmental Protection Agency is inadequately protecting the environment would not be protected under the statute; however, an employee's disclosure regarding the unsafe design of the cooling system of a Nuclear Regulatory Commission reactor would presumably be protected.

State Legislation Protecting Whistle Blowers

Essentially, there are two approaches available for states in establishing protection for whistle blowers: 1) through administrative rules and procedures -- as exemplified in the federal statute -- and 2) through the courts.

Professional opinion is divided as to whether or not a state statute is necessary if an administrative approach is utilized. By some interpretations, administrative protections can be effectively established through executive orders or regulations. Several administrative mechanisms are available for processing whistle blowing grievances, including establishing an independent personnel board to review employee grievances and establishing an inspector general or ombudsman. In addition, the federal government and some states have considered establishing incentives for employees who produce innovative or noteworthy work as well as penalties for those responsible for inefficiency or unfavorable practices.

To establish remedies through the court system, there are also several available options that have been considered at both the state and federal level. Of these, the most commonly utilized approach is to provide for civil penalties against an agency when an employer has unduly retaliated against an employee. However, legislation can also be drafted to impose civil penalties on the individual who was responsible for the retaliation. Another option, which was presented for congressional consideration, is to establish a legal defense fund to be made available to employees with alleged grievances.

Colorado has enacted legislation that provides for protection through the administrative approach, while Michigan has established remedies through the courts.

Colorado State Employee Protection Law - Colorado enacted a whistleblower protection law in the fall of 1979.⁴ Included in the statute's legislative declaration is the following statement:

The general assembly...declares that employees of the state of Colorado are citizens first and have a right and a responsibility to behave as good citizens in our common efforts to provide sound management of governmental affairs. To help achieve [this and other objectives], the general assembly declares that state employees should be encouraged to disclose information on actions of state agencies that are not in the public interest and that legislation is needed to ensure that any employee making such disclosures shall not be subject to disciplinary measures or harassment by any public official.

⁴ A copy of the Colorado statute is in Appendix B.

As enacted, the statute prohibits a state employer or supervisor from initiating a disciplinary action against an employee due to his or her disclosure of information. However, protection does not extend to an employee who knowingly discloses false information or who discloses information that is legally required to be held confidential. Under the provisions of the statute, an employee "who wishes to disclose information" is obligated to "make a good faith effort" to provide the employer or the general assembly with the information to be disclosed prior to the time of its disclosure.

The law enables any employee in the state personnel system to file a written complaint with the state personnel board if an alleged retaliatory measure has been directed against him. If upon review the charges appear to have a reasonable basis, the state personnel director is required to notify the employer of the findings. The employer may then petition the board for a hearing on the matter.

If the board determines that a violation against an employee has occurred, the board is required to order compensation to the employee for any costs incurred in the proceeding. The board also is required to order relief including, but not limited to, reinstatement, back pay, restoration of any loss in credited service, and expungement of any damaging personnel records of the employee. If a specific employer or supervisor is found to have personally initiated the retaliation initiated against the employee, a description of the offense is to be placed within the employer's personnel records.

The administrative approach is generally established in order to provide a means of resolving disputes internally. Under the Colorado law, an employer or employee who is dissatisfied with the findings of the board may take the case to district court.

According to Marilyn Heckel, who administers the employee protection law in Colorado, the statute has been used infrequently since its enactment. Only three or four cases have been filed since the program's inception in 1979. While this may be attributable in part to an absence of complaints, Mr. Heckel observed that there are also some weaknesses in the statute that may be deterring employees from utilizing it.

Ms. Heckel noted that the most significant problem is that the review and hearing process is not timely. The first case filed under the law took almost three years for a determination to be made. The board ruled against the employee, and the employee then filed a complaint in the district court. The judge dismissed the case on a technicality. According to Ms. Heckel, the employee, who presumably believed enough in the legitimacy of his complaint to pursue it for three years, was left with no available recourse and abundant legal bills.

Ms. Heckel also noted that several provisions of the statute were drafted with overly broad potential applications. As an example, Ms. Heckel noted that there is no statute of limitations included within the law. Conceivably, an employee could choose to disclose information pertaining to a violation that occurred ten years ago.

According to Ms. Heckel, staff have discussed the need for revision of the law, but the need is viewed to be a relatively low priority.

Michigan Whistleblowers' Protection Act - No state law offers as extensive protection to employees as that afforded through the Michigan statute.⁵ Enacted in 1980, this law may apply to any employee, including individuals within both the public and private sectors of employment. Under the law's provisions, an employer shall not "discharge, threaten, or otherwise discriminate against an employee" for reporting a violation, or suspected violation, of a law, rule, or regulation.

Unlike the Colorado law, the Michigan statute establishes civil action for injunctive relief or damages in the county circuit court as the first measure of recourse for employees who have experienced an alleged violation. The burden of proof is placed on an employee to "show by clear and convincing evidence" that at the time of conflict with his employer, the employee was about to report a suspected violation.

The statute also establishes remedies to be ordered as the judge considers appropriate. In rendering a judgment, a court shall order the reinstatement of the employee, the payment in the employee's favor of back wages, full reinstatement of fringe benefits and seniority, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including both attorney and witness fees.

According to Lee Schwartz, a legislative aide to Michigan Senator James Barcia who was instrumental in the law's enactment, a determination was made to use the court approach in order to make certain that employee protection was not used "frivolously" and would only be used for serious and significant cases.

Mr. Schwartz stated that there have been 10 known cases filed since the law was passed. Of these, the majority have been filed against public agencies; however, several pertain to private sector employers. According to Mr. Schwartz, his office has found no means of evaluating the effectiveness of the law or determining the extent to which the statute is being utilized. All cases are initially filed within Michigan circuit courts, which have no available system of tracking specific categories of cases.

⁵ A copy of the Michigan statute is located in Appendix C.

Representative Ward
June 25, 1983
Page 6

The U.S. Supreme Court recently ruled on a naval case pertaining to whistle blowing. To date, our research sources have been unable to obtain detailed information regarding the implications of the decision. When we are provided this information, we will transmit it to your office.

We hope this information has assisted you. Please do not hesitate to contact us if you have additional research questions.

bb

Attachments

Attachment A:

Civil Service Reform Act of 1978
(excerpted portions pertaining to whistle blowing)

Attachment A:

Civil Service Reform Act of 1978
(excerpted portions pertaining to whistle blowing)

Civil Service Reform Act of 1978

under an administrative interpretative regulation approved by the district court as reasonable and not challenged on appeal, it did not constitute "active duty"

within the meaning of this section, defining who is a "preference eligible" veteran. *Hroussard v. U. S. Postal Service*, C.A.Tex.1982, 674 F.2d 1103.

§ 2109. Air traffic controller; Secretary

For the purpose of this title—

(1) "air traffic controller" or "controller" means an employee of the Department of Transportation or the Department of Defense who, as determined under regulations prescribed by the Secretary, is actively engaged in the separation and control of air traffic, or is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility; and

(2) "Secretary", when used in connection with "air traffic controller" or "controller", means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense.

As amended Pub.L. 96-347, § 1(a), Sept. 12, 1980, 94 Stat. 1150.

1980 Amendment. Pub.L. 96-347 substituted in section catchline "controller; Secretary" for "controller" and in section included employees of the Department of Defense within the meaning of air traffic controller or controller and defined the term "Secretary" to mean Secretary of Transportation with respect to controllers in the Department of Transportation and Secretary of Defense with respect to controllers in the Department of Defense. Effective Date of 1980 Amendment. Section 3 of Pub.L. 96-347 provided that:

"This Act [amending sections 2109, 3307, 3381 to 3385, and 5335 of this title and enacting a provision set out as a note under section 5335 of this title] shall take effect on the later of—

"(1) October 1, 1980, or
 "(2) the ninetieth day after the date of the enactment of this Act [Sept. 12, 1980]."

Legislative History. For legislative history and purpose of Pub.L. 96-347, see 1980 U. S. Code Cong. and Adm. News, p. 2774.

CHAPTER 23—MERIT SYSTEM PRINCIPLES

Sec. 2301. Merit system principles.
 2302. Prohibited personnel practices.
 2303. Prohibited personnel practices in the Federal Bureau of Investigation.

Sec. 2301. Responsibility of the General Accounting Officer.
 2305. Coordination with certain other provisions of law.

§ 2301. Merit system principles

(a) This section shall apply to—

- (1) an Executive agency;
- (2) the Administrative Office of the United States Courts; and
- (3) the Government Printing Office.

(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for superior performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be—

(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

(A) a violation of any law, rule, or regulation, or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) In administering the provisions of this chapter—

(1) with respect to any agency (as defined in section 2302(a)

(2) (C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and

(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives;

which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

Added Pub.L. 95-454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1113.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 607 of Pub.L. 95-454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-454, see 1978 U.S. Code Cong. and Adm. News, p. 723.

Cross References. Principles included in personnel management system of General Accounting Office, see section 732 of Title 31, Money and Finance.

Library References

Officers and Personnel, United States G-33.
 C.J.S. Officers and Public Employees II 49 to 51, 53 to 55.
 C.J.S. United States II 36, 37, 62 to 64.

Purpose

Primary purpose of this chapter was to safeguard employees, tenured and non-tenured, who "blew the whistle" on illegal or improper official conduct. *Wren v. Merit Systems Protection Bd.*, C.A.D.C. 1982, 681 F.2d 807.

§ 2302. Prohibited personnel practices

(a) (1) For the purpose of this title, "prohibited personnel practice" means any action described in subsection (b) of this section.

(2) For the purpose of this section—

(A) "personnel action" means—

(i) an appointment;

(ii) a promotion;

(iii) an action under chapter 75 of this title or other disciplinary or corrective action;

(iv) a detail, transfer, or reassignment;

- (vii) a reemployment;
- (viii) a performance evaluation 43 of title;
- (ix) a decision concerning pay, or concerning education or training if the employee reasonably be expected to lead to an promotion, performance evaluation, or other action described in this paragraph; and

(x) any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level with respect to an employee in, or applicant for, a covered position in an agency;

(B) "covered position" means any position in the competitive service, a career appointee position in the Senior Executive Service or a position in the excepted service, but does not include—

- (i) a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making or policy-advocating character; or
- (ii) any position excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.

(C) "agency" means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

- (i) a Government corporation;
- (ii) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or
- (iii) the General Accounting Office.

(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—

- (1) discriminate for or against any employee or applicant for employment—
 - (A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);
 - (B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);
 - (C) on the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));
 - (D) on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or
 - (E) on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation;
- (2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—
 - (A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or
 - (B) an evaluation of the character, loyalty, or suitability of

(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

- (4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;
- (5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;
- (6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;
- (7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 3130(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

(8) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for—

- (A) a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—
 - (i) a violation of any law, rule, or regulation, or
 - (ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

If such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

- (i) a violation of any law, rule, or regulation, or
- (ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(9) take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation;

(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States; or

(11) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title.

This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action

(c) The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(d) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

(3) under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

(4) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition; or

(5) the provisions of any law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

Added Pub.L. 95-454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1114.

References in Text. Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), referred to in subsections (b) and (d), is classified to section 2000e-16 of Title 42, The Public Health and Welfare.

Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), referred to in subsections (b) and (d), are classified to sections 631 and 633a of Title 29, Labor.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), referred to in subsections (b) and (d), is classified to section 206(d) of Title 29.

Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), referred to in subsections (b) and (d), is classified to section 791 of Title 29.

The civil service laws, referred to in subsection (c), are set out in this title. See, particularly, section 3301 et seq. of this title.

Effective Date. Section effective 60 days after Oct. 13, 1978, see section 907 of Pub.L. 95-454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-454, see 1978 U.S. Code Cong. and Adm. News, p. 2723.

Cross References. Personnel practices prohibited by personnel management system of General Accounting Office, see section 732 of Title 31, Money and Finance.

Index to Notes

- Retaliation 1
- Right of action 5
- Standards 2
- Whistle-blowing protections Generally 3
- Disclosure of protected information 4

1. Retaliation

In proceeding concerning job demotion of employee of Veterans Administration, United States Merit Systems Protection

to prove by a preponderance of the evidence that the demotion was a reprisal for "whistleblowing." *Alley v. Veterans Admin. Medical Center*, C.A.8, 1982, 690 F.2d 151.

In case in which special counsel contended in effect that four deputy marshals' transfers to different duty stations were in retaliation for engaging in protected activities, Board, which upheld transfers of three deputies, had not violated principle to effect that knowledge of employees' protected activities on part of one with ultimate responsibility for a personnel action could support inference of retaliatory intent where Board had determined that those who effected the transfers had no knowledge of the protected activities and that those with knowledge had no effect. *Frazier v. Merit Systems Protection Bd.*, 1982, 672 F.2d 150, 217 U.S.App.D.C. 297.

2. Standards

To establish that agency action utilizing unapproved performance criteria was "based on" a prohibited personnel practice, petitioners would have to show that their performance, while falling the "no-acceptable performance" standard, was satisfactory under other applicable statutory standards. *Darby v. Internal Revenue Service*, 1982, 672 F.2d 102, 217 U.S.App.D.C. 330.

3. Whistle-blowing protections—General

"Whistleblowing" provisions of this chapter work only as a defense to disciplinary action. *Martin v. Lauer*, C.A.D.C. 1982, 680 F.2d 24.

4. Disclosure of protected information

In regard to a government employee deciding whether to "blow the whistle" on government fraud, waste, abuse or illegality, the legal question of whether disclosure is prohibited by law is of critical importance to the whistleblower, and he must be allowed to consult his attorney for an answer to that question absent some strong governmental interest in limiting such communications. *Martin*

5. Right of action

In enacting this section Congress did not take away from probationary employees their preexisting right to seek redress of constitutional violations in district court actions, and limit of statutory remedy provided probationary employees governing adverse personnel action based on "whistleblowing" does not preclude resort to independent action alleging violation of rights under U.S.C.A. Const. Amend. 1 in adverse personnel action based on criticism of agency practices and/or procedures. *Borrell v. U. S. In-*

tern. Communications Agency, C.A.D.C. 1982, 682 F.2d 981.

A purported whistle blower has no private right of action under this section prohibiting an official from taking adverse personnel action against an employee as reprisal for "whistleblowing" on official violations of law, waste and abuse of authority, and in case of probationary employee, the office of special counsel is the exclusive avenue of relief for alleged prohibited personnel practices under this section. *Id.*

§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

(a) Any employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau as a reprisal for a disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose) which the employee or applicant reasonably believes evidences—

- (1) a violation of any law, rule, or regulation, or
- (2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For the purpose of this subsection, "personnel action" means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of this title with respect to an employee in, or applicant for, a position in the Bureau (other than a position of a confidential, policy-determining, policy-making, or policy-advocating character).

(b) The Attorney General shall prescribe regulations to ensure that such a personnel action shall not be taken against an employee of the Bureau as a reprisal for any disclosure of information described in subsection (a) of this section.

(c) The President shall provide for the enforcement of this section in a manner consistent with the provisions of section 1206 of this title.

Added Pub.L. 95-454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1117.

Effective Date. Section effective 60 days after Oct. 13, 1978, see section 907 of Pub.L. 95-454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-454, see 1978 U.S. Code Cong. and Adm. News, p. 2723.

§ 2304. Responsibility of the General Accounting Office

(a) If requested by either House of the Congress (or any committee thereof), or if considered necessary by the Comptroller General, the General Accounting Office shall conduct audits and reviews to assure compliance with the laws, rules, and regulations governing employment in the executive branch and in the competitive service and to assess the effectiveness and soundness of Federal personnel management.

(b) The General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the Merit Systems Protection Board and the Office of Personnel Management. The report shall include a description of—

- (1) significant actions taken by the Board to carry out its functions under this title; and
- (2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office are in accord with merit system principles and free from prohibited personnel practices.

Added Pub.L. 95-454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1118.

¹ No in original.

Effective Date. Section effective 60 days after Oct. 13, 1978, see section 907 of

Legislative History. For legislative history and purpose of Pub.L. 95-454, see 1978 U.S. Code Cong. and Adm. News, p. 2723.

Attachment B:
Colorado Employee Protection Law

... or until an examination ...

63, § 26-2-2; L. 73, p. 426.

... the termination of his self-chosen ...

... ment contingent upon returning ...

... guard. (1) The provisions ...

... ho was a member of the ...

... § 26-2-3.

... part 3 shall apply to any ...

HOURS

... offices in the executive and ...

business daily, except on Saturdays, Sundays, and legal holidays, from the hour of 8:30 a.m. until the hour of 5:00 p.m.; except that nothing in this section shall affect the validity of any act performed by either of said departments before or after the hours specified in this section.

(2) Notwithstanding the provisions of subsection (1) of this section, when a city or city and county and the suburban area within a ten-mile radius of the boundaries thereof have a population in excess of fifty thousand inhabitants, the offices of any executive department of the state government located therein may vary its business hours from those indicated in subsection (1) of this section whenever the executive director of the principal department, with the approval of the governor, determines that such adjustment of hours will help alleviate peak traffic conditions and provide a more even flow of traffic for the purpose of creating safer highway conditions.

(3) Written notice of the variance permitted under subsection (2) of this section shall be given to the local news media of such cities or cities and counties not less than two weeks preceding the effective date of such variance.

Source: R & RE, L. 72, p. 180, § 1; C.R.S. 1963, § 26-3-1.

24-50-102. Appointment by outgoing officers prohibited. No state, county, or city appointive office, the term of which expires on or after the time fixed by law for the qualification of the officer having the authority to make such appointment, shall be filled by the outgoing appointing officer.

Source: R & RE, L. 72, p. 180, § 1; C.P.S. 1963, § 26-3-2.

ARTICLE 50.5

State Employee Protection

24-50.5-101.	Legislative declaration.	24-50.5-105.	Civil action.
24-50.5-102.	Definitions.	24-50.5-106.	Notice to state auditor.
24-50.5-103.	Retaliation prohibited.	24-50.5-107.	Reports to general assembly and governor.
24-50.5-104.	Complaints by state personnel system employees.		

24-50.5-101. Legislative declaration. The general assembly hereby declares that the people of Colorado are entitled to information about the workings of state government in order to reduce the waste and mismanagement of public funds, to reduce abuses in government authority, and to prevent illegal and unethical practices. The general assembly further declares that employees of the state of Colorado are citizens first and have a right and a responsibility to behave as good citizens in our common efforts to provide sound management of governmental affairs. To help achieve these objectives, the general assembly declares that state employees should be encouraged to disclose information on actions of state agencies that are not in the public interest

and that legislation is needed to ensure that any employee making such disclosures shall not be subject to disciplinary measures or harassment by any public official.

Source: L. 79, p. 965, § 1.

24-50.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Disciplinary action" means any direct or indirect form of discipline or penalty, including, but not limited to, dismissal, demotion, transfer, reassignment, suspension, corrective action, reprimand, admonishment, unsatisfactory or below standard performance evaluation, reduction in force, or withholding of work, or the threat of any such discipline or penalty.

(2) "Disclosure of information" means the written provision of evidence to any person, or the testimony before any committee of the general assembly, regarding any action, policy, regulation, practice, or procedure, including, but not limited to, the waste of public funds, abuse of authority, or mismanagement of any state agency.

(3) "Employee" means any person employed by a state agency.

(4) "State agency" means any board, commission, department, division, section, or other agency of the executive, legislative, or judicial branch of state government.

(5) "Supervisor" means any board, commission, department head, division head, or other person who supervises or is responsible for the work of one or more employees.

Source: L. 79, p. 965, § 1.

24-50.5-103. Retaliation prohibited. (1) Except as provided in subsection (2) of this section, no appointing authority or supervisor shall initiate or administer any disciplinary action against an employee on account of the employee's disclosure of information. This section shall not apply to:

(a) An employee who discloses information that he knows to be false or who discloses information with disregard for the truth or falsity thereof;

(b) An employee who discloses information from public records which are closed to public inspection pursuant to section 24-72-204;

(c) An employee who discloses information which is confidential under any other provision of law.

(2) It shall be the obligation of an employee who wishes to disclose information under the protection of this article to make a good faith effort to provide to his supervisor or appointing authority or member of the general assembly the information to be disclosed prior to the time of its disclosure.

Source: L. 79, p. 966, § 1.

24-50.5-104. Complaints by state personnel system employees. (1) Any employee in the state personnel system may file a written complaint with the state personnel board alleging a violation of section 24-50.5-103 if the employee demonstrates that reasonable communication to his supervisor,

appointing authority, or member of the general assembly has occurred in regard to the alleged violation. The state personnel board shall cause an investigation of the charges to be made by the state personnel director. If the investigation establishes that there is a reasonable basis for the charges, the appointing authority or supervisor shall be given written notice thereof. Within ten days after he receives such notice, the appointing authority or supervisor may petition the board for a hearing on the matter, and the board shall grant such hearing.

(2) If the state personnel board after hearing determines that a violation of section 24-50.5-103 has occurred, or if the investigation establishes a reasonable basis for the charges and no hearing is requested, the board shall order the appropriate relief, including, but not limited to, reinstatement, back pay, restoration of lost service credit, and expungement of the records of the employee who disclosed information, and, in addition, the state personnel board shall order that the employee filing the complaint be reimbursed for any costs incurred in the proceeding. Such reimbursement shall be made out of moneys appropriated to the agency which employs such employee. Judicial review of any determination by the state personnel board under this subsection (2) may be had in accordance with section 24-4-106.

(3) It shall be a defense in any disciplinary proceeding against an employee under section 24-50-125 that such proceeding was initiated in violation of section 24-50.5-103, and the issue of the violation of section 24-50.5-103 shall be determined by the state personnel board as a part of the disciplinary proceeding.

(4) Whenever the state personnel board determines that an appointing authority or supervisor has violated section 24-50.5-103, it shall cause an entry to that effect to be made in the supervisor's personnel records.

Source: L. 79, p. 966, § 1.

24-50.5-105. Civil action. Any employee not in the state personnel system, or any employee in the state personnel system who has filed a complaint under section 24-50.5-104 (1) but no reasonable basis was found for the charges, may bring a civil action in the district court alleging a violation of section 24-50.5-103. If the employee prevails, the employee may recover damages, together with court costs, and the court may order such other relief as it deems appropriate.

Source: L. 79, p. 967, § 1.

24-50.5-106. Notice to state auditor. Whenever the state personnel board finds that a violation of section 24-50.5-103 involving the disclosure of information concerning waste of public funds or mismanagement of a state agency has occurred, it shall transmit a copy of the investigation report to the state auditor, who shall proceed in accordance with section 2-3-101 (3) (c), C.I.S. 1973.

Source: L. 79, p. 967, § 1.

24-50.5-107. Reports to general assembly and governor. The state personnel board shall report annually to the general assembly and the governor concerning the complaints filed, hearings held, and actions taken pursuant to this article.

Source: L. 79, p. 967, § 1.

PUBLIC EMPLOYEES' RETIREMENT SYSTEMS

ARTICLE 51

Public Employees' Retirement Systems

PART I

STATE EMPLOYEES

24-51-101.	Definitions.	24-51-125.	Members remaining in public service — election of option.
24-51-102.	Public employees' retirement association.	24-51-126.	Colorado state university — U. S. department of agriculture employees.
24-51-103.	Retirement board — officers — group life insurance.	24-51-127.	Division of wildlife and the division of parks and outdoor recreation.
24-51-104.	Members' contributions.	24-51-128.	Members of the general assembly.
24-51-105.	State contributions.	24-51-129.	Persons eligible.
24-51-106.	Retirement fund defined — state treasurer custodian — disbursements.	24-51-130.	Applications.
24-51-107.	Board to direct investments of retirement fund.	24-51-131.	When emeritus retirement benefits commence.
24-51-108.	Legal adviser.	24-51-132.	State employees' emeritus retirement fund — limitation on pension.
24-51-109.	Refunds, when made — deferred retirement annuity.	24-51-133.	Funds not subject to process.
24-51-110.	Members may be reinstated.	24-51-134.	Retired state members — employment in position covered by association — when.
24-51-111.	Retirement for superannuation.	24-51-135.	Redetermination of benefits.
24-51-112.	Optional forms of annuities.	24-51-136.	Increase in public employees' benefits — stabilization fund — creation.
24-51-113.	Military service — waiver of payments — service credit.	24-51-137.	Colorado association of school boards and high school activities association.
24-51-114.	Colorado state patrol.	24-51-138.	Reserve fund credits.
24-51-115.	Disability retirement — annuity.	24-51-138.5.	Fire and police pension association.
24-51-116.	Medical examination for disability.	24-51-138.6.	Special districts association.
24-51-117.	Heirs to receive payment, when.	24-51-139.	Credited service in excess of twenty years prior to July 1, 1969.
24-51-118.	Annuities to be paid monthly.	24-51-140.	Prorating clause.
24-51-119.	Minimum contribution time — rights.	24-51-141.	District attorneys covered under public employees'
24-51-120.	Funds not subject to process.		
24-51-121.	Insurance, banking laws not to apply.		
24-51-122.	Gifts and bequests.		

24-51-143.	Salary deductions.
24-51-144.	State payments.
24-51-145.	Retirement of district attorneys.
24-51-146.	Benefits not considered compensation or increase in emoluments.
24-51-147.	Effective date — retroactive application limited.

PART 2

PUBLIC EMPLOYEES

24-51-200.5.	Definitions.
24-51-201.	Extension of coverage.
24-51-202.	Exemption by state subdivisions.
24-51-203.	Exemption of present employees of covered subdivisions.
24-51-204.	Duties of public employers.
24-51-205.	Public employee deductions.
24-51-206.	Public employer payments.
24-51-207.	Municipal employees' reserve fund.
24-51-208.	School district employees' reserve fund.
24-51-209.	Administration and management.
24-51-210.	Retirement of municipal employee members.
24-51-211.	Retirement of school district employee members.
24-51-212.	Optional forms of annuities.
24-51-213.	Disability retirement — annuity.
24-51-214.	Medical examination for disability retirement.
24-51-215.	General provisions.
24-51-216.	Military service — waiver of payments — service credit.
24-51-217.	Heirs to receive amount due member.
24-51-218.	Annuities paid in installments.
24-51-219.	Funds not subject to process.
24-51-220.	Insurance and banking laws not to apply.
24-51-221.	May receive gifts and bequests.
24-51-222.	Rules and regulations.
24-51-223.	Retired school district members — employment in position covered by association — when.
24-51-224.	(Repealed).
24-51-225.	Redetermination of benefits.
24-51-226.	Regional library districts.
24-51-227.	City council or other governing authority of

24-51-229. (Repealed).

PART 3

COUNTY OR DISTRICT HEALTH DEPARTMENTS

24-51-301.	Coverage to employees of health departments — application.
24-51-302.	Disposition of funds.
24-51-303.	Employees in unorganized counties.

PART 4

HOUSING AUTHORITIES

24-51-401.	Housing authorities covered.
24-51-402.	Funds, how credited.

PART 5

SCHOOL EMPLOYEES

24-51-501.	Legislative declaration.
24-51-502.	School employees covered.
24-51-503.	Arrears in payments.
24-51-504.	Penalty for arrears.
24-51-505.	Reciprocity of retirement systems.

PART 6

JUDGES OF COURTS OF RECORD

24-51-601.	Courts covered under public employees' retirement association.
24-51-602.	Exemption for present judges.
24-51-603.	Salary deductions.
24-51-604.	State payments.
24-51-605.	Investment of judges' retirement fund.
24-51-606.	Administration and management.
24-51-607.	Retirement of judges.
24-51-608.	Optional forms of annuities.
24-51-609.	Disability retirement.
24-51-610.	Medical examination for retirement.
24-51-611.	Refunds — retention.
24-51-612.	Heirs to receive payments — when.
24-51-613.	Annuities paid monthly.
24-51-614.	Redetermination of benefits.

PART 7

PUBLIC EMPLOYEES' SOCIAL

Attachment C:
Michigan Whistle Blower Protection Act

(4) When a recommendation to an appointing authority is made by the board concerning an unclassified employee or appointee, the appointing authority shall take appropriate disciplinary action which may include dismissal.

P.A.1973, No. 196, § 5, Imd. Eff. Jan. 8, 1974.

Library References

States 67, 73.

C.J.S. States §§ 120, 121, 130 to 138, 140.

Notes of Decisions

In general 1
Closed sessions 2

behalf of the agency. Op.Atty.Gen.1980, No. 5640.

1. In general

The son of a member of the barrier free design board may be employed by the board without violation of the ethical standards of § 15.341 et seq., although a member of the barrier free design board may not participate in any case in which his or her son appears as

2. Closed sessions

The state board of ethics is subject to the Open Meetings Act, § 15.261, and when it meets in closed session for the protection of individual rights, it must comply with the provisions of said act, with respect to the calling and holding of the closed session. Op.Atty.Gen. 1980, No. 5760.

15.346 Rules

Sec. 6. The board may promulgate rules governing its own procedures pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. For a period of 1 year following the effective date of this act the board shall have full authority to exercise all of its functions in accordance with temporary rules of procedure promulgated by the board. Both the temporary and permanent rules of the board shall provide that:

(a) The board may request the attendance of any witness whose testimony, in the judgment of the board, will aid in the conduct of its investigations.

(b) A person appearing before the board shall submit either sworn or unsworn testimony as the board may decide and may at all times be represented and accompanied by counsel.

(c) A record of testimony taken before the board or a hearing officer designated by it shall be made in the manner prescribed by the board.

(d) The board may, when it appears necessary for the protection of individual rights, hold its meetings and hearings in private. All other meetings and hearings shall be open to the public.

P.A.1973, No. 196, § 6, Imd. Eff. Jan. 8, 1974.

622

Notes of Decisions

1. In general

Records and files concerning any dismissed complaint or terminated investigation by the state board of ethics may be suppressed to protect an individual's privacy, but may only be disposed of by the state board of ethics in accordance with § 18.13c. Op.Atty.Gen. 1980, No. 5760.

15.347 Appropriation

Sec. 7. There is appropriated from the general fund of the state an amount necessary to implement this act but not to exceed \$10,000.00 for the fiscal year ending June 30, 1974.

P.A.1973, No. 196, § 7, Imd. Eff. Jan. 8, 1974.

Library References

States 131.

C.J.S. States §§ 230, 234 to 239.

15.348 Effect on other acts

Sec. 8. The provisions of this act shall not supersede the provisions of any other acts heretofore or hereinafter enacted and shall be interpreted and administered to the extent not inconsistent with other acts.

P.A.1973, No. 196, § 8, Imd. Eff. Jan. 8, 1974.

M.C.L.A.

WHISTLEBLOWERS' PROTECTION ACT

Caption editorially supplied

Library References

M.L.P. Employment §§ 1, 23, 131.

M.L.P. State § 6.

P.A.1980, No. 469, Eff. March 31, 1981

AN ACT to provide protection to employees who report a violation or suspected violation of state, local, or federal law; to provide protection to employees who participate in hearings, investigations, legislative inquiries, or court actions; and to prescribe remedies and penalties.

The People of the State of Michigan enact:

15.361 Definitions

Sec. 1. As used in this act:

(a) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, ex-

623

press or implied. Employee includes a person employed by the state or a political subdivision of the state except state classified civil service.

(b) "Employer" means a person who has 1 or more employees. Employer includes an agent of an employer and the state or a political subdivision of the state.

(c) "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.

(d) "Public body" means all of the following:

(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.

(ii) An agency, board, commission, council, member, or employee of the legislative branch of state government.

(iii) A county, city, township, village, intercounty, intercity, or regional governing body, a council, school district, special district, or municipal corporation, or a board, department, commission, council, agency, or any member or employee thereof.

(iv) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body.

(v) A law enforcement agency or any member or employee of a law enforcement agency.

(vi) The judiciary and any member or employee of the judiciary.
P.A.1980, No. 469, § 1, Eff. March 31, 1981.

15.362 Discharge of, threats to or discrimination against employee for reporting violations of law

Sec. 2. An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action.

P.A.1980, No. 469, § 2, Eff. March 31, 1981.

024

Library References

Labor Relations ¶7.

C.J.S. Labor Relations § 2 et seq.

15.363 Civil actions for injunctive relief or damages

Sec. 3. (1) A person who alleges a violation of this act may bring a civil action for appropriate injunctive relief, or actual damages, or both within 90 days after the occurrence of the alleged violation of this act.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has their principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorney fees.

(4) An employee shall show by clear and convincing evidence that they or a person acting on their behalf was about to report, verbally or in writing, a violation or a suspected violation of a law of this state, a political subdivision of this state, or the United States to a public body.

P.A.1980, No. 469, § 3, Eff. March 31, 1981.

Library References

Action ¶3.
Injunction ¶25.

C.J.S. Actions § 9.
C.J.S. Injunctions §§ 41, 42, 54.

15.364 Remedies ordered by court

Sec. 4. A court, in rendering a judgment in an action brought pursuant to this act, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the court determines that the award is appropriate.

P.A.1980, No. 469, § 4, Eff. March 31, 1981.

Library References

Officers ¶76.

C.J.S. Officers and Public Employees
§§ 114 to 116, 221.

625

15.365 PUBLIC OFFICERS AND EMPLOYEES

15.365 Penalties for violations

Sec. 5. (1) A person who violates this act shall be liable for a civil fine of not more than \$500.00.

(2) A civil fine which is ordered pursuant to this act shall be submitted to the state treasurer for deposit in the general fund.

P.A.1980, No. 469, § 5, Eff. March 31, 1981.

Library References

Labor Relations ⇨1056.

C.J.S. Labor Relations § 1011.

15.366 Collective bargaining rights

Sec. 6. This act shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement.

P.A.1980, No. 469, § 6, Eff. March 31, 1981.

Library References

Labor Relations ⇨257.

C.J.S. Labor Relations §§ 219 to 250.

15.367 Compensation for employee participation in investigation, hearing or inquiry

Sec. 7. This act shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with section 2¹ of this act.

P.A.1980, No. 469, § 7, Eff. March 31, 1981.

¹ Section 15.362.

15.368 Notices of employee protections and obligations

Sec. 8. An employer shall post notices and use other appropriate means to keep his or her employees informed of their protections and obligations under this act.

P.A.1980, No. 469, § 8, Eff. March 31, 1981.

Library References

Labor Relations ⇨7.

C.J.S. Labor Relations § 2 et seq.

15.369 Short title

Sec. 9. This act shall be known and may be cited as "the whistle-blowers' protection act".

P.A.1980, No. 469, § 9, Eff. March 31, 1981.

626

POLITICAL ACTIVITIES

15.401

POLITICAL ACTIVITIES OF PUBLIC EMPLOYEES

Caption editorially supplied

Library References

M.L.P. State § 6.

P.A.1976, No. 169, Imd. Eff. June 25

AN ACT to regulate certain political activities by certain public employees; to prescribe the powers and duties of certain state agencies; and to provide penalties. Amended by P.A.1979, No. 15, § 1, Imd. Eff. May 24.

The People of the State of Michigan enact:

15.401 Public employee defined

Sec. 1. As used in this act, "public employee" means an employee of the state classified civil service, or an employee of a political subdivision of the state who is not an elected official.

P.A.1976, No. 169, § 1, Imd. Eff. June 25.

Library References

Elections ⇨311.

C.J.S. Elections § 324.

Notes of Decisions

In general 1
Civil service commission 2
Job performance 5
Public employees 3
Rules and regulations 6
Volunteers 4

ture to enact statute providing that employee of state classified civil service may engage in certain political activities. Id.

The Political Freedom Act was enacted to permit civil service employees and employees of political subdivisions of the state to engage in certain political activities. Council 11, Am. Federation of State, County and Municipal Emp. (AFSCME), AFL-CIO v. Michigan Civil Service Commission (1978) 274 N.W.2d 804, 87 Mich.App. 420, affirmed 292 N.W.2d 442, 408 Mich. 385.

State cannot require individual to relinquish rights guaranteed him or her by U.S.C.A.Const. Amend. 1 as a condition of public employment, and when political activities of public employee are unrelated to his or her job responsibilities, the employee must be treated as a member of the general public for purpose of adjudicating U.S.C.A.Const. Amend. rights. Id.

1. In general

Legislature of state is empowered to enact laws to promote and regulate political campaigns and candidates. Council No. 11, Am. Federation of State, County and Municipal Emp. (AFSCME), AFL-CIO v. Michigan Civil Service Commission (1980) 292 N.W.2d 442, 408 Mich. 385.

There is no provision in State Constitution which plainly, or by fair implication, empowers the state civil service commission to regulate the off-duty political activity of classified civil servants which in any manner preemptively conflicts with power of legisla-

627

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Staff

DATE: May 3, 1984

RE: HB 578 Whistleblowing

HB 578 would prohibit state employees from acting or failing to act on personnel matters when the action would be a reprisal for whistleblowing.

Sectional Analysis

Section 1: The first substantive change to the bill is on page 2, lines 8-12. Subsection (6) amends state statutes to prohibit personnel action that would be a reprisal to a state employee for disclosure of certain information.

Section 2: (page 2, lines 13-19) adds a new section to statute that determines the head of each agency or the person to whom they delegate the authority as the person responsible for preventing personnel actions used to punish whistleblowers.

Section 3. Subsection(a) outlines the type of information state employees may disclose and be protected from personnel action based on the disclosure.

Subsection (b), page 3, lines 5-10, allows a state employee to disclose the information outlined in (a) to the appropriate person in the agency.

Subsection (c), page, lines 11-21, allows the head of each agency to the employee within the agency who is to receive the information.

Subsection (d), page 3, lines 21-26, clarifies that nothing in the section authorizes withholding information from the legislature or any adverse personnel action for whistleblowing.

Subsection (e), page 3, line 26- page 4, line 9, defines "personnel action."

Section 4: defines that this section apply to employees in the classified and partially exempt service.

Fiscal information

This bill has a zero fiscal note.

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



SENATE STATE AFFAIRS

MEETING SCHEDULE

May 1, Tuesday 3:00 pm

Butrovich Room
Capitol Building

N O M E E T I N G

May 3, Thursday 3:00 pm

Butrovich Room
Capitol Building

- HB 498 Military Retirement benefits *FIN*
- HB 556 Complaints alleging retaliation before the State
Commission for Human Rights *JVD*
- HB 578 Whistleblowing *JVD*
- ✓* SJR 28 The right of a person to keep and bear arms *- JVD*
- HCR 53 Requesting the State Geographic Board to name an
unnamed lake near Ketchikan as "Ed Todd Lake" *X*

4/26/84

§ 39.25.070

sonnel board is
or and confirmed
ointments to the
ars. Subsequent
1 unexpired term
remainder of the
he same manner

s of the state who
an two members
arty.
of the governor

m allowance and
duties. (§ 11 ch

anel board. In
er, the personnel

rt of them within
ve or disapprove
to the board, and
y hold the public

extension of the
s provided in AS

in the classified

bers constitute a
native vote (are
ie board);

a witnesses, and
nt to a hearing

v. State, Sup. Ct. Op.
433), 438 P.2d 718

§ 39.25.080 PUBLIC OFFICERS AND EMPLOYEES § 39.25.110

Sec. 39.25.080. Public records. The state personnel records, except those records which the rules require to be held confidential for reasons of public policy, are public records and are open to public inspection, subject to reasonable regulations as to the time and manner of inspection. (§ 18 ch 144 SLA 1960)

Article 2. Coverage of Personnel.

Section

- | | |
|-------------------------|--|
| 90. Coverage of chapter | 120. Partially exempt service |
| 100. Classified service | 130. Extension of partially exempt and classified services |
| 110. Exempt service | |

Sec. 39.25.090. Coverage of chapter. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the partially exempt service as specifically provided. (§ 3 ch 144 SLA 1960)

Sec. 39.25.100. Classified service. The classified service consists of all positions in the state service not included in the exempt service or in the partially exempt service. (§ 4 ch 144 SLA 1960)

Quoted in *Mueller v. Alaska State Bd. of Personnel*, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967); *State v. Bogenrife*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Sec. 39.25.110. Exempt service. The following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

- (1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;
- (2) justices of the supreme court, judges of the superior court, judges and magistrates of other state courts established by law;
- (3) the administrative director and all other employees of the state court system, and employees and members of the Judicial Council;
- (4) the chief administrative officer of each house of the legislature;
- (5) all employees of the state legislature and its agencies;
- (6) the head of each principal department in the executive branch;
- (7) officers, members of the teaching staff, and employees of the University of Alaska;
- (8) certificated teachers employed by the state to teach in schools operated by the state;
- (9) patients and inmates employed in state institutions;
- (10) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;
- (11) members of boards, commissions, or authorities, except as otherwise provided by law;

paragraph (21) of this section as amended by ch. 112, SLA 1982.

The second 1982 amendment rewrote this section.

The 1983 amendment rewrote paragraph (13).

Editor's notes. — AS 47.30.340, referred to in paragraph (13) was repealed by § 7, ch. 84, SLA 1981.

Sec. 39.25.120. Partially exempt service. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) — (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of councils, boards, or commissions established by statute in the Office of the Governor or the office of the lieutenant governor, unless a different classification is provided by statute;

(6) the executive director, deputy director, hearing officers, and administrative law judges of the Alaska Public Utilities Commission;

(7) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(8) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(9) the principal executive officer of the following boards, councils, or commissions:

- (A) Alaska Public Broadcasting Commission;
- (B) Professional Teaching Practices Commission;
- (C) Parole Board;
- (D) Board of Nursing;
- (E) Real Estate Commission;

- (F) Alaska Royalty C
- (G) Alaska Historical
- (H) Alaska State Co
- (I) Alaska Police Sta
- (J) Council on Scienc
- (K) Older Alaskans
- (10) Alaska Pioneers
- (11) hearing examin
- (12) the comptroller

nue;

(13) investment offic

(14) airport manage
Public Facilities erpl
tional Airports;

(15) the deputy dire
director of the division
and Economic Develop

(16) the executive c
Commission;

(17) the director, c
relations analysts I, la
research directors of th
of Administration;

(18) the reha'ilitati
Board. (§ 6 ch 144 SL
SLA 1961; am § 4 ch

109 SLA 1969; am § 4
ch 82 SLA 1975; am §

am § 19 ch 263 SLA 1
§ 1 ch 103 SLA 1978;

No. 41 § 3 (1980); an
Executive Order No.

(1980); am Executive
46 § 4 (1980); am § 1
§ 4 ch 110 SLA 1981;
ch 50 SLA 1982; am

Effect of amendments
1981 amendment added a
to this section as it exist
third 1982 amendment. Th
are now contained in
(c)(9)(K).

The second 1981 amei
tuted a comma for "and"
uty director" and added "l
and administrative law ju
"deputy director" in pre
(c)(6).

§ 39.25.120

— AS 47.30.340, paragraph (13) was repealed 1981.

sitions in the par-
classification plan
according to the

empt service is not
place on a register,
board in case of
partially exempt
published under AS

onstitute the par-

incipal departments
ant general of the

incipal departments
f the Department

ent of Law and of

pal department in

ns established by
of the lieutenant
d by statute;

ring officers, and
ities Commission;
nsel, and hearing

ommissioner of each
1, but the number
xtended under AS
s;

boards, councils,

§ 39.25.120

PUBLIC OFFICERS AND EMPLOYEES

§ 39.25.120

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(K) Older Alaskans Commission;

(10) Alaska Pioneers' Home managers;

(11) hearing examiners in the Department of Revenue;

(12) the comptroller in the division of treasury, Department of Revenue;

(13) investment officers in the Department of Revenue;

(14) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;

(15) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;

(16) the executive director and staff of the Alaska Public Offices Commission;

(17) the director, deputy director, personnel analysts II, labor relations analysts I, labor relations analysts II, senior negotiators, and research directors of the division of labor relations in the Department of Administration;

(18) the rehabilitation administrator of the Workers' Compensation Board. (§ 6 ch 144 SLA 1960; am § 2 ch 48 SLA 1961; am § 2 ch 133 SLA 1961; am § 4 ch 5 SLA 1966; am § 3 ch 104 SLA 1969; am § 2 ch 109 SLA 1969; am § 4 ch 78 SLA 1971; am § 9 ch 47 SLA 1974; am § 4 ch 82 SLA 1975; am § 10 ch 207 SLA 1975; am § 2 ch 157 SLA 1976; am § 19 ch 263 SLA 1976; am Executive Order No. 39 § 6 (1977); am § 1 ch 103 SLA 1978; am § 2 ch 108 SLA 1978; am Executive Order No. 41 § 3 (1980); am Executive Order No. 42 §§ 3, 4 (1980); am Executive Order No. 43 § 4 (1980); am Executive Order No. 44 § 5 (1980); am Executive Order No. 45 § 3 (1980); am Executive Order No. 46 § 4 (1980); am § 18 ch 115 SLA 1980; am § 3 ch 79 SLA 1981; am § 4 ch 110 SLA 1981; am Executive Order No. 48 § 3 (1981); am § 4 ch 50 SLA 1982; am § 26 ch 93 SLA 1982; am § 8 ch 112 SLA 1982)

Effect of amendments. — The first 1981 amendment added a paragraph (19) to this section as it existed prior to the third 1982 amendment. These provisions are now contained in subparagraph (c)(9)(K).

The second 1981 amendment substituted a comma for "and" preceding "deputy director" and added "hearing officers, and administrative law judges" following "deputy director" in present paragraph (11).

The third 1981 amendment substituted "Department of Administration" for "Department of Environmental Conservation" in paragraph (17) of this section as it existed prior to the third 1982 amendment of this section. The provisions of that paragraph are now contained in subparagraph (c)(9)(J).

The first 1982 amendment added paragraph (c)(17).

The second 1982 amendment added paragraph (c)(18).

Sec. 39.26.020. Application of provisions. The provisions of AS 39.26.010 and 39.26.015 apply to those state employees in the classified and partially exempt services. (§ 1 ch 102 SLA 1971; am § 2 ch 13 SLA 1976)

Chapter 27. Pay Plan for State Employees.

Section	Section
10. [Repealed]	25. Swing and graveyard shift differentials
11. Salary schedule	30. Annual salary survey
12. Temporary salary schedules	35. Preparation and submission of pay schedules
15. [Repealed]	40. University salary survey
20. Pay step differentials by election district and in other states	45. Definitions
22. Pay increments for longevity in state service	

Sec. 39.27.010. Basic salary schedule.

Repealed by § 12 ch 80 SLA 1978.

Cross reference. — For present provisions covering the subject matter of the repealed section, see AS 39.27.011.

Editor's note. — The repealed section derived from § 1, ch. 127, SLA 1962; § 1,

ch. 112, SLA 1966; § 3, ch. 123, SLA 1967; § 7, ch. 101, SLA 1969; § 7, ch. 193, SLA 1970; § 1, ch. 87, SLA 1971; § 1, ch. 47, SLA 1974; § 1, ch. 138, SLA 1975.

Sec. 39.27.011. Salary schedule. (a) [Effective until January 1, 1981] The following monthly basic salary schedule is approved as the pay plan for classified and partially exempt employees in the executive branch of the state government who are not members of a collective bargaining unit established under the authority of the Public Employment Relations Act:

Range No.	Step A	Step B	Step C	Step D	Step E	Step F
05	1,075	1,106	1,140	1,173	1,207	1,240
06	1,140	1,173	1,207	1,240	1,277	1,315
07	1,207	1,240	1,277	1,315	1,355	1,399
08	1,277	1,315	1,355	1,399	1,440	1,487
09	1,355	1,399	1,440	1,487	1,533	1,577
10	1,440	1,487	1,533	1,577	1,628	1,678
11	1,533	1,577	1,628	1,678	1,731	1,787
12	1,628	1,678	1,731	1,787	1,850	1,915
13	1,731	1,787	1,850	1,915	1,984	2,058
14	1,850	1,915	1,984	2,058	2,132	2,215
15	1,984	2,058	2,132	2,215	2,289	2,377
16	2,132	2,215	2,289	2,377	2,465	2,556
17	2,289	2,377	2,465	2,556	2,652	2,746
18	2,465	2,556	2,652	2,746	2,845	2,953

Range No.	Step
19	2,652
20	2,845
21	3,058
22	3,287
23	3,532
24	3,795
25	4,077
26	4,378
27	4,699
28	5,042
29	5,407
30	5,795

[Effect schedule is : employees i members c authority o

Range No.	Step
05	1,075
06	1,140
07	1,207
08	1,277
09	1,355
10	1,440
11	1,533
12	1,628
13	1,731
14	1,850
15	2,058
16	2,215
17	2,377
18	2,556
19	2,746
20	3,058
21	3,395
22	3,757
23	4,145
24	4,560
25	5,003
26	5,485
27	6,007
28	6,570

§ 39.25.220

makes a false
a civil action to
any resultant
to exceed three
anent employee

9.25.200,
tment or agency

f personnel and

nted for a period
was made under
that is required

is employed in
apt or partially
gency employee;
who has been
or part-time or
nd who is in the
d the required

ment employee,
rvice with prior
on will continue
et which is not
ency and which
h 67 SLA 1979)

ilfully violates a
ted under this

nor under this
er immediately

ed as the State

§ 39.26.010

PUBLIC OFFICERS AND EMPLOYEES

§ 39.26.015

Chapter 26. Rights of State Employees.

Section

- 10. Prohibited acts
- 15. Dress codes and appearance standards
- 20. Application of provisions

Sec. 39.26.010. Prohibited acts. (a) No department, agency, official, officer, or any person employed by the state may directly or indirectly:

(1) require or coerce any employee of the state to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(2) require or coerce any employee of the state to make any report concerning any of his activities or undertakings unless the activity or undertaking is related to the performance of his official duties;

(3) except as directly related to the performance of his official duties, require or coerce any employee of the state to submit to any interrogation or examination or psychological test which is designed to elicit from him information concerning

(A) his personal relationship with any person connected with him by blood or marriage,

(B) his religious beliefs or practices,

(C) sexual matters,

(D) his political affiliation or philosophy;

(4) coerce any employee of the state to invest or contribute his earnings in any manner or for any purpose;

(5) restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the state, if the employee does not purport to speak or act in an official capacity.

(b) The heads of the administrative departments of the state may adopt internal management regulations for their respective departments, specifying exceptions to (a) (5) of this section. These regulations shall be submitted for approval to the personnel board provided for in AS 39.25.060.

(c) The provisions of (a) of this section do not diminish the authority of an authorized law enforcement agency to conduct criminal investigations of state employees suspected of being involved in criminal activity. (§ 1 ch 12 SLA 1971)

Sec. 39.26.015. Dress codes and appearance standards. Dress codes and appearance standards adopted by a department, division, agency, official, or other employee of the state, which are to be applied to state employees shall be in the form of a regulation subject to legislative review under the Administrative Procedure Act (AS 44.62). (§ 1 ch 13 SLA 1976)

HB

595

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

ce

Revision Date: _____

Page 1 of 2

(Page 1 of 2)

REQUEST

Bill/Resolution No.: HB 595
Title: "An Act relating to JRS"

FISCAL DETAIL

Agency Affected: Ak. Court System
Program Category Affected: JRS & PERS

Sponsor: Bussell
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
Operating						
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	-0-	-0-	-0-	-0-	(111.5)
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	(111.5)

CAPITAL

REVENUE

FUNDING: (Thousands of Dollars)

General Fund	-0-	0-	-0-	-0-	-0-	(111.5)
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys *J.K. Humphreys* Phone 465-4460
Division: Retirement & Benefits Date: 2-22-84

Approved by Commissioner: Lisa Rudd *Lisa Rudd* Date: 2/22/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note / Admin 2/22/84

House Bill 595
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

February 22, 1984

IV Analysis: This bill will replace the administrative director of the Alaska Court System in retirement coverage under the Public Employees' Retirement System (PERS). Even though the bill will take effect immediately, the incumbent would be entitled to continued coverage under the Judicial Retirement System (JRS).

We have assumed that the incumbent would remain in his position until June 30, 1988 when he would have approximately 15 years of JRS service. We have assumed that the present annual salary of \$79,600 will increase at a rate of 8% per year and that the contribution rates for the PERS and the JRS will remain constant through 1989 at the FY 85 level (13.80% PERS and 109.14% JRS).

The savings shown represent the savings to the State under the JRS less the cost to the State under the PERS.

HB

605

SENATE STATE AFFAIRS COMMITTEE

Date received 4-18-84

Bill Number HB 605 Title facility to house legislature in Anchorage

Fiscal Note	Position Paper	Date requested	From	Amount	Date Rec'd	
					Note	Paper
<u>yes</u>			<u>Revenue</u>	<u>15375.0</u>	<u>3</u>	<u>4/18</u>

CONTACTS

Backup list

HEARING INFORMATION

NOTES:

FINAL ACTION _____

DATE _____

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Handwritten initials and date: MB 2/24/84

Revision Date _____

REQUEST

Bill/Resolution No: HB 605
 Title: \$100 Million GOB for
Anchorage legislative facility
 Sponsor: Ward
 Requestor: House State Affairs
 Date of Request: _____

FISCAL DETAIL

Agency Affected: State Bond Committee
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	4500.0	15375.0	15375.0	15375.0	15375.0
<u>TOTAL OPERATING</u>	-	-	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	4500.0	15375.0	15375.0	15375.0	15375.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	-	-	-	-	-	-

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Debt service calculated at 9% on 10 year bonds. FY 85 is the first semiannual interest payment.

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
 Division: Treasury

Phone: 465-2350
 Date: 2-24-84

Approved by Commissioner: [Signature]
 Agency: Revenue

Date: 2/29/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

HB

609



Official Business

Alaska State Legislature

Senate Committee on State Affairs

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

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senator Vic Fischer, Chair
Senate State Affairs Committee

RE: SCS CSHB 609 (State Affairs)

DATE: May 15, 1984

Attached is a copy of the proposed CS for HR 609 Relating to the State Bond Committee. The changes to the bill are as follows:

page 1, lines 13-15, the Bond Committee would remain a three member committee with the same members. The location of the State Bond Committee would be moved to Revenue. In the bill that came to committee the State Bond Committee had five members;

page 3, lines 2-8, the Bond Committee's report was expanded.

page 3, lines 10-12, requires the State Bond Committee to publicize the report and make it available to the public;

page 3, lines 13-22, breaks down the policies and guidelines into three parts-- (c), (d), and (e). The policies apply only to debt of the state.

If you have any specific concerns with the proposed CS, please let me know as soon as possible.

Thanks.

Sen Pat Rodley



Official Business

Alaska State Legislature

Senate Committee on State Affairs

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

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senator Vic Fischer, Chair
Senate State Affairs Committee

RE: SCS CSHB 609 (State Affairs)

DATE: May 15, 1984

Attached is a copy of the proposed CS for HB 609 Relating to the State Bond Committee. The changes to the bill are as follows:

page 1, lines 13-15, the Bond Committee would remain a three member committee with the same members. The location of the State Bond Committee would be moved to Revenue. In the bill that came to committee the State Bond Committee had five members;

page 3, lines 2-8, the Bond Committee's report was expanded.

page 3, lines 10-12, requires the State Bond Committee to publicize the report and make it available to the public;

page 3, lines 13-22, breaks down the policies and guidelines into three parts-- (c), (d), and (e). The policies apply only to debt of the state.

If you have any specific concerns with the proposed CS, please let me know as soon as possible.

Thanks.



Alaska State Legislature

Senate Committee on State Affairs

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

Official Business

MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Committee Staff

RE: CSHB 609 (Fin), relating to debt of the state, its agencies, and municipalities

DATE: May 8, 1984

This bill is based on recommendations made by the Government Finance Research Center in its report to the Legislative Budget and Audit Committee.

Sectional analysis

Section 1 adds to the membership of the state bond committee and places it within the Department of Revenue. The two new members are a chief fiscal officer of a city or borough and a member of the board of a public corporation of the state.

Section 2 changes the state bond committee chairman from the Commissioner of Commerce to the Commissioner of Revenue, allows the committee to meet by electronic media, and allows 24 hour notice of a meeting to authorize issuance of bonds.

Section 3 expands the duties of the state bond committee to include submit-
tal of an annual report concerning the amount, type, and impact of state
debt, the development of policies for management of state debt and
guidelines for management of municipal debt, and the requiring of
debt-issuing state entities to submit a calendar of proposed debt.

Section 4 allows the state bond committee to employ an executive director
and other staff.

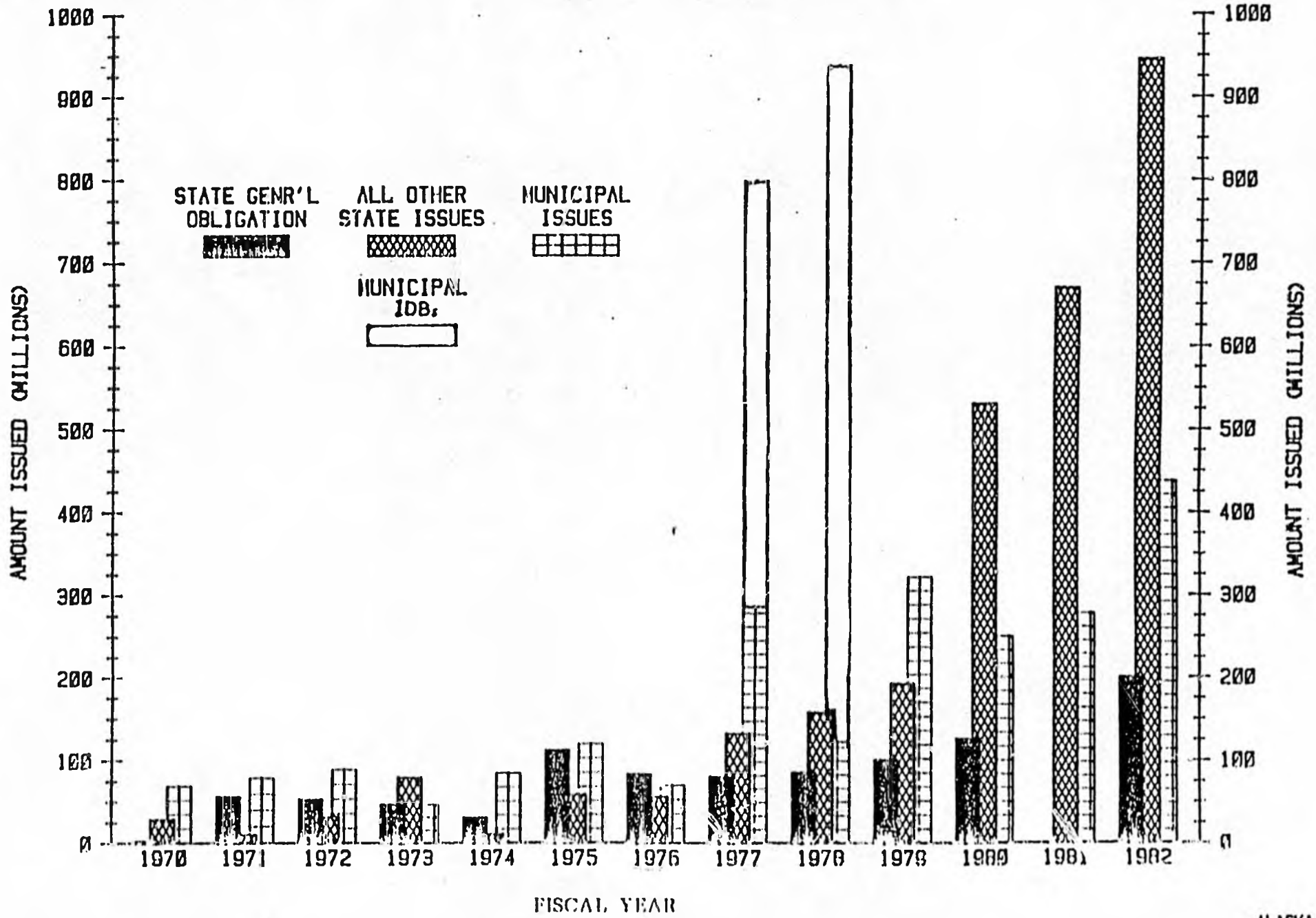
Section 5 places the employees of the state bond committee in the partially
exempt service.

Section 6 provides for an immediate effective date.

Back-up information

CSHB 609 (Fin), CSHB 609 (Loans), HB 609
Fiscal note
Statutes
Executive summary of debt management report

**ANNUAL STATE DEBT ISSUANCE
1970 TO 1982
(MILLIONS OF DOLLARS)**



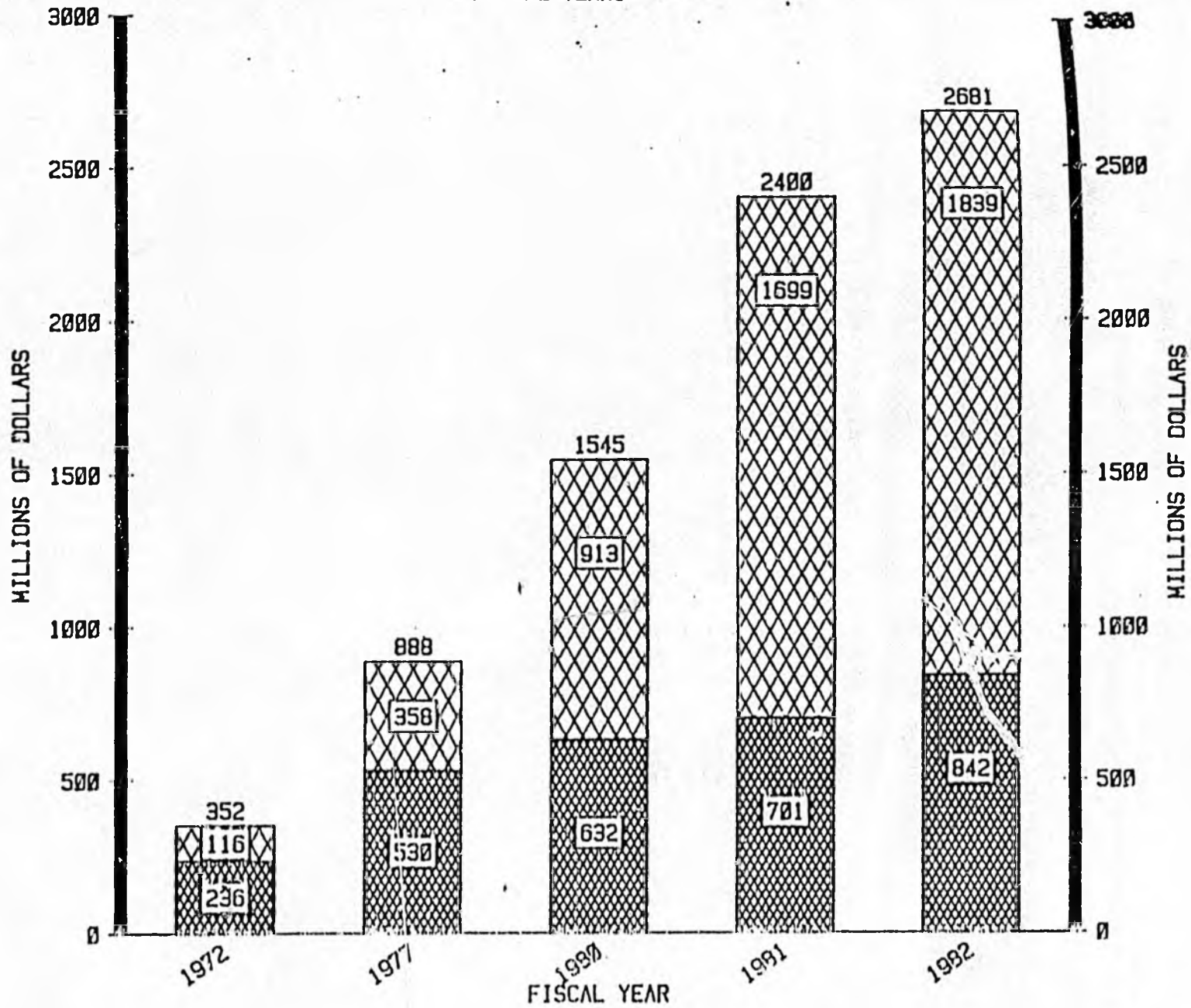
COMPOSITION OF STATE DEBT OUTSTANDING

SELECTED FISCAL YEARS

DEBT-GENERAL OBLIGATION



DEBT-OTHER



ALASKA

TOTAL STATE DEBT OUTSTANDING BY ISSUER
(DOLLARS IN 000'S AS OF APRIL 1, 1983)

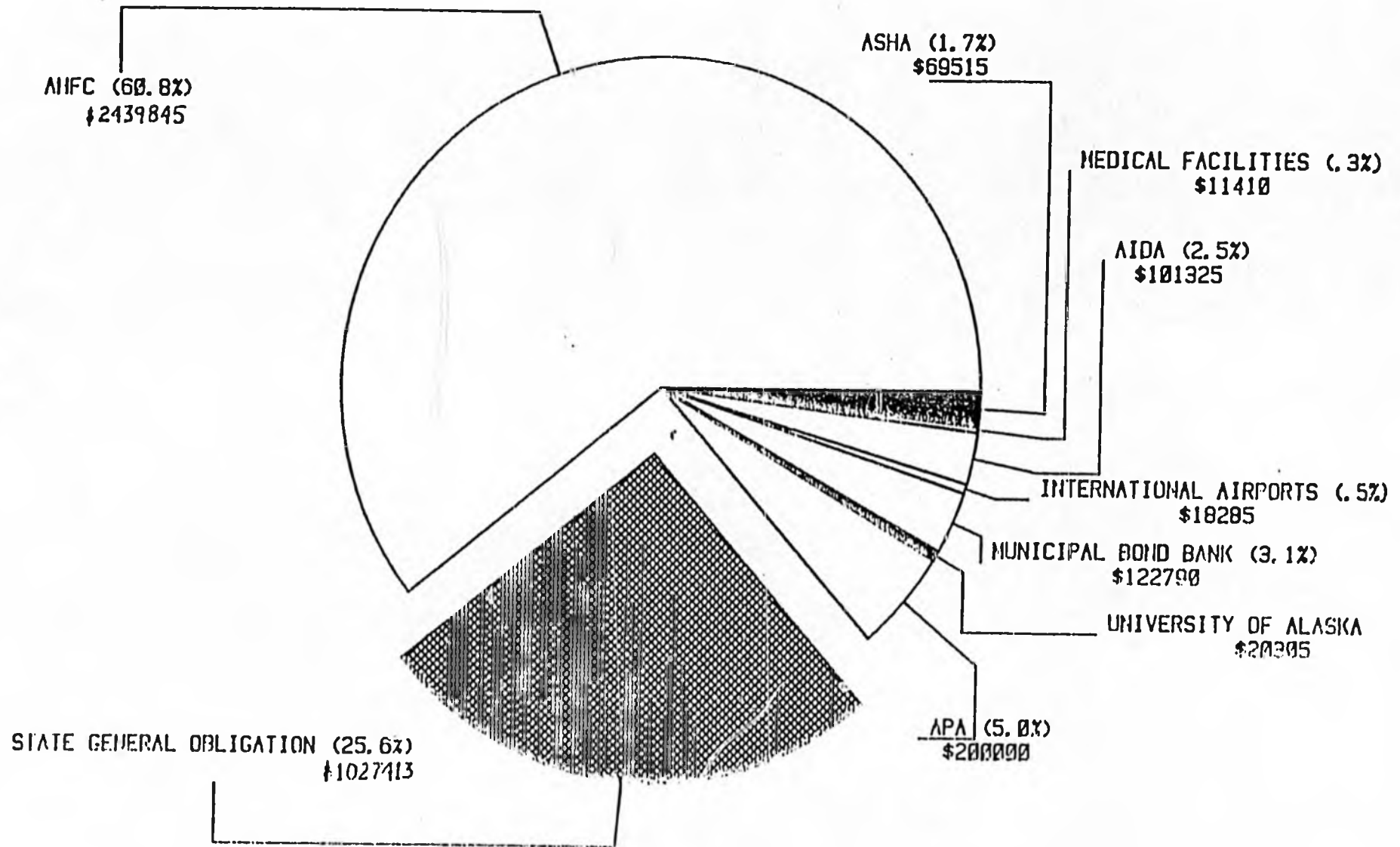


Exhibit 3.3

50

Table 5.3

Municipal Debt Ratios

<u>City/Borough(population)</u>	<u>G.O. Debt Per Capita</u>	<u>Debt as % of Assessed Value</u>
North Slope *	\$77,781	7.10%
Anchorage *****	1,278	2.46
Kenai Peninsula ***	3,064	4.45
Valdez *	22,864	4.97
Fairbanks North Star ****	1,146	2.78
Matanuska-Susitna ***	2,508	5.42
Juneau **	1,267	2.69
Kodiak Island **	1,576	4.58
Sitka *	2,127	4.15
Ketchikan Gateway **	1,166	2.17
Fairbanks ***	463	1.12
Ketchikan City *	1,043	2.58
Bristol Bay *	3,064	4.45
Kenai *	706	1.80
Palmer City	1,438	3.93
Unalaska *	1,821	4.76
Kodiak City *	553	1.00
Petersburg *	985	2.32
Homer City *	993	1.85
Nenana *	5,046	30.39
Wrangell *	1,085	2.94
Skagway *	2,312	3.21
Cordova *	747	1.44
Haines *	499	1.30
Haines City *	746	0.23
Bethel *	159	0.41
Nome *	148	0.32
Seldovia *	590	2.26
Dillingham *	40	0.11
Craig *	62	0.17
Statewide Average	\$ 4,648	3.75%

Moody's Local Debt Medians
Population

*****	200-300,000	361	2.1%
****	50-100,000	391	1.8
***	25-50,000	289	1.9
**	10-25,000	422	2.7
*	Under 10,000	600	3.2

Source: Department of Community and Regional Affairs,
Alaska Taxable, Fiscal year 1982.

Table 7.5

Total Outstanding State General Obligation and Revenue Bond Debt
Per \$1,000 of Personal Income
(1974-75 to 1980-81)^a

State	1974-75	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81
Alabama	\$53.08	\$51.57	\$47.45	\$42.12	\$39.92	\$35.36	\$40.99
Alaska	200.29	196.31	211.19	258.67	298.34	300.73	423.42
Arizona	7.31	6.83	6.81	5.59	4.59	3.92	5.13
Arkansas	12.74	12.23	11.83	13.02	15.93	21.78	25.55
California	45.78	41.07	38.39	35.57	33.60	32.22	31.14
Colorado	7.94	7.38	10.33	14.11	16.73	15.86	21.44
Connecticut	138.06	133.55	125.56	117.73	111.73	106.25	109.83
Delaware	156.15	177.88	166.60	155.93	155.87	169.23	160.21
Florida	33.66	33.55	34.47	35.46	35.02	29.62	27.20
Georgia	45.65	46.10	41.03	38.41	34.78	31.77	27.68
Hawaii	200.77	208.25	211.63	219.25	195.65	190.71	171.26
Idaho	9.07	8.11	4.09	20.83	31.74	42.92	44.19
Illinois	36.59	40.48	44.53	51.34	51.70	52.12	52.16
Indiana	20.44	17.86	15.85	14.45	12.67	12.35	19.27
Iowa	7.34	6.87	6.11	9.68	14.75	13.94	14.45
Kansas	22.14	27.03	24.36	22.49	21.21	18.53	16.31
Kentucky	119.10	107.44	98.92	114.31	109.37	108.64	98.20
Louisiana	65.56	68.70	74.31	75.33	85.04	83.52	85.09
Maine	90.26	91.83	88.66	98.93	87.69	81.69	86.20
Maryland	78.50	86.33	96.48	106.86	92.91	79.22	81.38
Massachusetts	110.09	128.84	123.52	110.14	104.72	99.34	97.79
Michigan	30.50	30.69	28.18	27.73	28.99	31.58	34.95
Minnesota	37.92	40.77	43.35	55.73	51.98	52.08	54.36
Mississippi	63.96	71.53	66.58	95.41	55.39	49.02	42.35
Missouri	10.63	11.75	13.83	15.65	17.68	22.99	28.00
Montana	20.03	19.44	21.52	24.15	23.60	45.98	40.65
Nebraska	7.39	6.65	5.61	4.69	3.89	13.53	15.07
Nevada	13.04	11.69	10.33	38.91	46.62	61.41	56.70
New Hampshire	55.83	60.36	63.92	64.69	99.23	106.66	111.10
New Jersey	78.02	74.26	68.98	73.21	74.82	80.85	84.87
New Mexico	27.42	29.59	30.11	42.65	56.13	69.26	67.31
New York	123.95	162.61	148.73	152.90	142.19	130.86	122.17
North Carolina	22.90	23.68	24.64	21.06	26.85	27.49	26.24
North Dakota	16.11	18.32	16.94	16.24	24.00	38.31	31.52
Ohio	42.56	43.98	41.99	40.75	39.85	39.20	42.41
Oklahoma	65.69	59.06	51.62	53.04	62.42	55.19	54.55
Oregon	125.79	132.13	142.61	158.26	170.74	198.73	222.42
Pennsylvania	77.12	77.59	77.12	71.95	63.48	56.57	51.42
Rhode Island	86.15	86.94	99.93	121.05	146.82	163.02	178.29
South Carolina	70.88	71.09	80.20	96.66	78.33	85.24	96.91
South Dakota	19.39	26.28	57.27	83.73	112.04	132.08	114.48
Tennessee	38.17	41.94	47.93	48.53	43.24	39.58	37.81
Texas	28.26	26.56	24.01	20.98	19.64	18.13	16.74
Utah	14.93	22.56	19.03	33.25	39.42	47.94	45.83
Vermont	196.26	161.80	161.07	145.06	142.12	163.01	149.74
Virginia	23.85	22.15	24.36	31.25	36.97	38.27	38.11
Washington	56.43	48.61	50.31	44.03	39.93	37.50	37.71
West Virginia	119.17	116.88	119.79	113.28	117.39	119.17	112.70
Wisconsin	39.10	48.06	52.87	56.32	55.38	55.47	54.45
Wyoming	33.21	28.08	23.68	27.25	48.60	70.44	78.51
Total U.S.	\$57.27	\$60.85	\$58.81	\$59.71	\$57.61	\$56.39	\$56.06

a. Debt data from the U.S. Department of Commerce, Bureau of the Census, State Government Finances (series GF), various years. Debt data measured as of June 30 of each fiscal year shown. Figures exclude debt issued by local governments, and debt issued by the District of Columbia.

Reprinted from : The Use of Tax-Exempt Bonds in California : Policy Issues and Recommendations, Legislative Analyst, Jon David Vasche, State of California, December 1982.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: CS HB 609 (Finance)
 Title: Debt of the State, Agencies & Municipalities
 Sponsor: House Finance
 Requestor: House Rules
 Date of Request: 3-30-84

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: State Bond Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	50.0	50.0	50.0	50.0	50.0
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	-	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	50.0	50.0	50.0	50.0	50.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	-	-	-	-	-	-

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Funds are requested to provide for the annual report and guidelines.

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
 Division: Treasury

Phone: 465-2350
 Date: 3-30-84

Approved by Commissioner: Thomas Mitchell
 Agency: _____

Date: 4/2/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note / Revenue 4/2/84

Stanton

A Review of Debt Capacity
and Debt Management
for the State of Alaska

Report to the
Legislative Budget and Audit Committee,
State of Alaska Legislature

August, 1983

Prepared by
GOVERNMENT FINANCE RESEARCH CENTER
MUNICIPAL FINANCE OFFICERS ASSOCIATION
1750 K Street, NW
Suite 200
Washington, DC 20006

Exec. Summary - debt management Report 8/83

CHAPTER I

EXECUTIVE SUMMARY

The changing nature of tax-exempt borrowing, including the shift from traditional tax-supported government bonds to revenue-backed bonds, the rise and volatility in interest rates, the reliance upon individual investors in contrast to institutional lenders, and changes in federal law concerning various aspects of tax-exempt financing, has resulted in states generally being more attentive to debt management and debt policy. This study of State debt management comes at a propitious time. While the past growth of tax-exempt borrowing by issuers bearing the Alaska name has been rapid and sizeable, new programs and proposals before the legislature indicate that the demand for new spending and borrowing is far from sated. At the same time, recent reductions in the market price for petroleum and the unpredictability of its future supply and price raise uncertainties about the level and viability of the principal source of governmental revenues that directly or indirectly supports many of Alaska's borrowing and spending programs.

The interdependence of the Alaskan economy and its oil wealth creates a paradox for assessing the State's debt management and debt capacity. Oil revenues have enabled the State and local governments to borrow at unusually high levels -- in terms of per capita amounts of debt -- and have provided the financial security required by investors in the State's bonds. It is the reliance on these same oil revenues, however, that is the principal weakness of the Alaska credit as a long-term issuer of tax-exempt bonds and that makes assessment of the State's future debt capacity very difficult.

To be effective, debt management must join the capital needs of the State and its constituent governmental units with the ability to achieve bond market access on affordable terms. Market access is a function of debt capacity, debt burden, and perceived ability to pay; it is also conditioned importantly by the overall forces that shape borrowing needs nationally and the willingness of investors to supply funds. The private credit market, where public debts are sold, decides what borrowers will be accommodated and at what cost -- from a fluctuating but always limited pool of lendable funds. While Alaska is concerned first and foremost with the cost and availability of credit for its own needs, Alaska bonds compete with other governmental obligations from all parts of the country. The terms offered Alaska borrowers by the marketplace are strongly influenced by the volume and quality of competing claims from other borrowers. Hence, it is in Alaska's interest to offer a well-structured, high-quality security in order to obtain funds, and to obtain them at acceptable interest rates.

Effective debt management must also provide State and local issuers and the State's debt managers with the flexibility to react quickly and responsibly to changes in the financial markets. That the tax-exempt bond market is highly

sensitive to changes in the federal tax code was obvious in late 1982 as the pendency of the bond registration requirement brought a flood of issues to market. Now, as a result of this legislation, the primary and secondary market acceptance of an issuer's securities will in part depend on a timely, accurate and efficient transfer process (discussed on pages 35-36). Changes in other federal tax provisions can also sharply affect the demand for tax-exempt bonds. Chapter Two includes a survey of the tax acts of 1981 and 1982, and their impacts on the municipal bond market. These changes, like volatility in interest rates, are factors over which the State has little control. However, a responsible and flexible debt management program places the State in the best position to respond effectively to events that may effect the State's borrowing.

State-Level Debt

The evidence presented in this study shows that Alaska debt has grown from 0.7 to 1.8 percent of annual national tax-exempt bond market volume since 1970. The rising market share accorded Alaska bonds has been the result of an increase in the State's annual volume of new debt issues from \$134 million to \$1.4 billion between 1970 and 1982. Chapter Three documents the increase in borrowing and includes a profile of the major State debt issuers. Of all State-level issuers in Alaska, the Alaska Housing Finance Corporation has issued the largest amount of public debt -- over 62 percent of State-level debt and over 44 percent of all State-wide debt (including local government obligations) outstanding -- and is the State's most frequent and best-known borrower.

At a time when we have seen the national credit rating agencies downgrade the credit rating of many states, Alaska can be proud of its rating upgrade over the past 10 years from a Baa to an AA credit. Credit analysts and the market itself have recognized the quality of Alaska's bonds as an investment. The evidence shows that Alaska now trades on par with such strong AA credits as Connecticut and Ohio. Chapter Four presents the results of our study of the State's past market experience. The data show that Alaska has consistently experienced lower borrowing costs than other states with similar ratings. Evidence to support this comes from the lower underwriting spreads, larger number of bids, and the lower interest rates on Alaska bonds as compared to those of other states of similar high quality.

State Bond Committee

In spite of the strong past performance of the State's bonds, the mid-1980s is a good time for the State of Alaska to broaden and strengthen the role of the State in debt management and oversight, particularly through the State Bond Committee (see pages 157 to 160). Recent fluctuations in the worldwide price of oil and the decline of Prudhoe Bay oil production within the ten-year range have alerted investors to the "boom and bust" nature of the Alaskan economy. These two events will be important factors behind the ability of the State to issue further debt in the coming years. One major role for a newly

reconstituted State Bond Committee would be oversight of the State's total indebtedness. It is not intended that the State Bond Committee supplant the activities or authority of independent agencies and corporations; however, it is vital that the State annually review and assess its debt position -- including within that review all State-level debt -- relative to the State's debt capacity and priorities for future public investment.

In order to carry out its expanded scope of activity, the State Bond Committee should be restructured. The chairmanship should reside in a senior-level fiscal official -- such as the Commissioner of Revenue or the Director of the Office of Management and Budget -- who is actively involved in the State's debt management. The Commissioner of Commerce and Economic Development is the Committee's present chair. Expanding the membership to include a representative from the governing board of a State corporation, and the Commissioner of Community and Regional Affairs would emphasize the interrelationship of the State, its agencies, and local government in the debt management area. To assist in fulfilling its expanded duties, the Committee should be staffed full-time by a professional in the field of public finance.

The Committee should be given the responsibility to take a global view of the State's debt-related activities in a formal manner, not in the loose, informal way that is presently said to exist. The State may wish to require that each entity of the State which is authorized to issue bonds annually file a debt financing plan with the State Bond Committee. From these plans a master debt issuance schedule may be compiled to inform and assist all debt issuers in the State. The schedule could be updated monthly or on an "as-needed" basis as financing plans change. The State Bond Committee should also annually prepare a comprehensive profile of outstanding debt and monitor its impact on the State's fiscal condition. Special attention in this review should be paid to the level of the State's contingent liabilities, such as moral obligation debt, and changes in the growth and composition of local debt.

It is advised that the State develop written debt management guidelines that include several criteria for evaluating the desired and affordable level of debt issuance in lieu of a legislative ceiling on debt issuance. The State Bond Committee should be responsible for implementing these guidelines by reviewing each State-level bond issue before it is brought to market. The Committee's only power in this regard would be to defer or veto an issuance because the security structure or sources of repayment are inadequate or the issue jeopardizes the financing plans or creditworthiness of the State. Likewise, if the State wishes to maintain its present interest rate ceiling on the issuance of bonds, it is preferable to set such a ceiling administratively rather than legislatively.

Debt Capacity and Affordability

The analysis of debt capacity is addressed in Chapter Seven. Comparisons of State debt with that of other states indicates that Alaska is an "outlier" with extremely high ratios of debt per capita and debt per \$1,000 of personal

income. Therefore, it is necessary to look in-depth at the State's revenue sources to assess its capacity for further debt issuance. Determination of the affordable level of general obligation debt essentially depends upon the State's ability and willingness to pay debt service now and in the future on any amounts borrowed. For the immediate future, Alaska's debt capacity will be determined by the amount of general fund revenues that the State wishes to allocate to the payment of debt service and the preservation of the permanent fund. Thus, short-term affordability depends exclusively on the fluctuating level and uncertain future of oil revenues as long as the State's source of funds to repay debt is tied to this single source. In the longer term, when the State's oil wealth has subsided, the ability of Alaska to issue debt will depend upon the stability and breadth of the State's economy. Without its extensive petroleum resource base Alaska will become much more like other states and analysis of its debt capacity will follow the traditional steps outlined in pages 196 to 206.

The methodology for evaluating Alaska's short-term debt affordability is presented on pages 218 to 222. If the State maintains its current ratio of debt service to revenues at the five percent level and continues to issue debt with maturities within the known and predictable range of State revenues, the State's creditworthiness will be preserved. If the State wishes to have debt service comprise a larger share of the State budget (to a maximum of 10 percent), debt capacity would be increased -- although this would force trade-offs against other State spending priorities and possibly result in a decline in the State's AA credit rating. Through 1990, the State's general obligation debt capacity is estimated to range from \$252 million to \$1.2 billion, depending upon the level of current revenues the State decides to commit to the payment of debt service.

- Because of the frequent changes in petroleum prices and their impact on State revenues, the affordability analysis along the lines presented in this report must be continually updated. Revisions should take place at least quarterly when the Department of Revenue releases long-range revenue forecasts and when ever the State issues general obligation debt. Such analysis will provide the State Bond Committee with important information to be used in formulating future debt issuance plans.

Even though the affordability of revenue bonds is principally determined by the adequacy of the revenue stream pledged to repayment of the bonds, along with the market's acceptance of the security structure behind the bonds, revenue bonds indirectly affect the State's debt capacity. To the extent that revenue bonds are supported by a pledge of the State's moral obligation, or their issuance creates an oversupply of bonds bearing the Alaska name in the marketplace, the State's ability and willingness to carry debt will be affected.

Use of Moral Obligation Bonds

We do not see the possibility of entirely eliminating the use of the State's moral obligation pledge in the case of all Alaska financings. Where it is possible to avoid its use, such as in the case of Alaska Housing Finance Corporation

bonds, it should be avoided. The moral obligation pledge should not be treated as a right, available to most State issuers, as it is at present. Rather, it should be considered a privilege, an indication to the bond market that, after close scrutiny, the State believes the project meets public policy objectives and is financially sound. The State Bond Committee should have the responsibility for determining the necessity of the moral obligation to an agency's borrowing program, and its potential impact on the State's creditworthiness.

If moral obligation debt increases at a time when overall State revenues are stable, are growing at a rate less than the growth in contingent liabilities, or are declining, the moral obligation burden may encumber the State's credit capacity. Such an occurrence would make general obligation debt more costly and, therefore, less affordable due to weaker credit quality. Hence, the importance for including contingent debt in the State Bond Committee's annual review of the State's outstanding debt.

If it were not for the Permanent Fund, the limited sources of State revenue would cause investors to discount the moral obligation pledge heavily. The mere existence of the Permanent Fund provides comfort to bondholders that the State would be able to meet its moral obligations, if necessary, even though such action is not constitutionally permitted and would require a change in law. Any attempt to erode the principal of the Fund, or to otherwise weaken its position should, therefore, be avoided.

Capital Financing Plan

Demonstrating keen fiscal management and attention to capital financing and debt management is especially important to Alaska because of the uncertainties surrounding State revenues. The State must wisely allocate scarce resources to its developing economy in a manner that balances capital investment with the return on that investment providing a diverse and broadened economy that will be able to maintain the public infrastructure put in place. Accordingly, the need for a capital financing plan linked to a comprehensive capital improvement plan is evident. (see pages 165 to 174)

The quality of financial reporting is an important element in a capital financing plan and to the complete debt management picture. While Alaska's financial reporting is complete, it does not conform to generally accepted accounting principles (GAAP). States that use an accounting system that conforms to, and is consistent with, GAAP benefit in several ways (see pages 174-175). It is recommended that the State consider converting its annual financial reports to GAAP. Such action will provide the State with vital information on its financial condition, encourage the State to take a global view of outstanding debt, improve financial management, and will be looked upon favorably by investors in the State's bonds.

General Debt Management

Specific debt management practices being used in the State could be improved. The State and its agencies recognize the importance of securing professional advice on debt issuance. However, financial advisors and bond counsel are typically compensated based on a percentage of the amount of bonds sold. Tying the advisor's compensation to the amount of bonds sold or the successful delivery of the bonds builds in an unnecessary risk of conflict of interest. The State should review its method of compensation for financial advisory services and seek arrangements that do not encourage conflicts between the advice and the payment for the advice. In this regard, a flat fee -- such as a base retainer and hourly rates -- is to be preferred over a fee based upon the amount of bonds issued. (see pages 185 to 190).

There is a place for both negotiated and competitive techniques for selling bonds in a debt management and debt marketing strategy. The approach which is judged to provide the greatest market reception and lowest interest cost should be followed. While each bond issue is unique, it appears that some bond issues presently being sold by negotiation by the State, for example, those of the Alaska Housing Finance Corporation, would be candidates for a competitive sale. (see pages 182 to 184).

Neither the State Bonding Act nor the State statutes regarding municipal debt specify the method by which effective interest rate on a competitive bond sale must be determined. However, the State and most municipalities have chosen to use the net interest cost (NIC) method to compare alternative bids at competitive sale. This method may not be in the best interests of the State because the winning bid on a NIC basis does not necessarily result in the lowest true interest cost (TIC) -- a measure of the "true" cost of borrowing money that takes into account the time value of money. We recommend that the State Bond Committee review the current rules that govern the award of the State's competitive general obligation bond issues, and that municipalities be encouraged to do so as well, with a view toward awarding bond issues on the basis of TIC. (see pages 179 to 181).

Local Government Debt

Local governments in Alaska have issued approximately 29 percent of all State-wide debt. The analysis of local government borrowing in Chapter Five indicates that the bonds of Alaska's localities sell at yields significantly above the average for the overall market. Furthermore, the evidence indicates that yields on the North Slope Borough's debt are vastly higher than the average for other Alaska municipalities. The most significant comparison of local and State bond issuance is the markedly higher underwriting cost on local issues. Compared to other states, local governments in the Alaska rely on general obligation bond financing at twice the national rate. Given the high levels of debt that have been issued by the State's localities, the much higher than average interest costs of Alaska's local debt, and the loss to the State of revenues from taxes levied by certain localities to pay the annual debt service on their debt, the State may wish to analyze further local bond market experience and State policies regarding local debt management. The State

should take the lead in implementing programs that encourage the prudent use and guard against the misuse of local debt issuance.

Currently the State is being short-changed by those localities that levy a high amount of taxes on oil production property in order to finance debt service. Because taxes paid to the locality are credited towards State property tax liability, this represents a direct revenue loss to the State. It is, therefore, in the State's interest to address the absolute level of debt issuance by its localities. It is recommended that the State develop a two-tiered ceiling on local debt issuance, based on per capita amounts of debt and a percentage of property value.

Specific State-level programs which can assist local borrowers and improve local debt management are covered in pages 136 to 141. In evaluating alternative State policies, the State must consider both the direct budgetary costs of the programs and the indirect effects on the State's own credit worthiness, and the amount of autonomy the State wishes its localities to enjoy. A reasonable compromise between encumbering the State's debt capacity and providing greater financial assistance to local governments would be to expand the role of the Municipal Bond Bank. Our review of the Bank's market performance indicated that, compared with other state bond banks, the Alaska Bond Bank has the potential for saving as many as 50 basis points in borrowing cost by undertaking an active national marketing effort. The State should review the present security structure behind the Bank's bonds with the view toward improving their market reception by taking advantage of the State's high creditworthiness.

The State's present program to subsidize the cost of school construction is an expensive undertaking; however, its cost could be minimized through attention to the cost of the project and to the means of financing during the Department of Education's approval process. Further alternatives include the issuance of State general obligation bonds in lieu of local school construction bonds, and requiring the Municipal Bond Bank to issue all school construction debt.

- (b) The commissioner of revenue may
 - (1) invest and reinvest the principal of the funds;
 - (2) sell, exchange, convey, transfer, or otherwise dispose of investments of the funds by private contract or at public auction;
 - (3) vote upon a stock, bond, or other security; give a general or special proxy or power of attorney with or without power of substitution; exercise a conversion privilege, subscription right, or other option and make payments incidental to it; consent to or participate in a corporate reorganization or other change affecting corporate securities, delegate discretionary power, pay an assessment or charge in connection with the delegation; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities, or other investments held in the funds;
 - (4) make, execute, acknowledge, and deliver documents of transfer and conveyance and instruments necessary or appropriate to carry out the powers granted;
 - (5) register investments held in a fund in the name of the board having the power to approve investments for a fund;
 - (6) do all acts whether or not expressly authorized which are considered proper for the protection of the investments held in the funds. (§ 4 ch 182 SLA 1978)

Chapter 15. State Bonding Act.

Article

- 1. General Obligation Bonds (§§ 37.15.010 — 37.15.220)
- 2. Bond Anticipation Notes (§§ 37.15.300 — 37.15.390)
- 3. International Airports Revenue Bonds (§§ 37.15.410 — 37.15.550)

Article 1. General Obligation Bonds.

Section	Section
10. Full faith and credit for general obligation bonds	120. Regulations
12. Continuing debt service appropriation	130. Officers, records and proceedings
15. Committee shall publish notice of existing state indebtedness before election	140. Duties of state bond committee
20. Manner and amounts of sale	150. Committee may employ special services
30. Interest rate and maturity	155. Prohibited bidding on bonds and anticipation notes
40. Sale of bonds	160. Contents of resolution
55. Redemption	170. State bond committee to certify annual principal, interest, and reserve requirements
60. Form and registration of bonds	180. Remedies of bondholders
70. Place of payment	190. Negotiability
80. Signatures and seal	200. Bonds as legal investments
90. Terms and conditions	210. Refunding bonds
100. Trustee	215. Official statements
110. Creation and membership of state bond committee	220. Short title

Statutes

Sec. 37.15.010. Full faith and credit for general obligation bonds. The full faith, credit and resources of the state are hereby pledged to the payment of the principal of and interest and redemption premium, if any, on all general obligation bonds of the state authorized pursuant to art. IX, § 8 of the constitution. (§ 1 ch 175 SLA 1960; am § 1 ch 104 SLA 1967)

Collateral references. — 63 Am Jur.2d, Public Funds, §§ 23-32. 64 Am Jur.2d, Public Securities and Obligations, § 1 et seq. 81A C.J.S., States, §§ 250-262. Funding or refunding obligations as

subject to conditions respecting approval by voters, 97 ALR 442. Validity of bond issue in excess of amount permitted by law within authorized debt, tax or voted limit, 175 ALR 823.

Sec. 37.15.012. Continuing debt service appropriation. The amounts required annually to pay the principal, interest, and redemption premium on all issued and outstanding general obligation bonds of the state are appropriated on July 1 of each year from the general fund to the state bond committee to make all required payments of principal, interest, and redemption premium. (§ 1 ch 100 SLA 1981)

Opinions of attorney general. — This section does not represent an unconstitutional dedication of public funds under § 7, art. IX, of the state constitu-

tion, as that section of the constitution contains an implied exception for bond obligations. November 30, 1982, Op. Att'y Gen.

Sec. 37.15.015. Committee shall publish notice of existing state indebtedness before election. (a) Before a general or special election in which a bond issue is offered for ratification, the state bond committee shall publish a notice of existing state bonded indebtedness at least once a week for three consecutive weeks in a newspaper of general circulation in each of the four judicial districts of the state. The first notice shall be published at least 20 days before the date of the election. A notice shall contain

- (1) the current total bonded indebtedness of the state,
- (2) the cost of the debt service on the current indebtedness.

(b) Neither the failure to publish the notice of existing state bonded indebtedness nor a defect in the publication affects the validity of the bond issue offered for ratification or of a general or special election in which a bond issue is offered for ratification. (§ 2 ch 50 SLA 1964; am § 1 ch 8 SLA 1969)

Collateral references. — Effect of inclusion in call for election, or in proposal for bond issue submitted to people, of unauthorized method of payment or retirement, 93 ALR 362.

Bonds issued by state officer of board payable solely out of proceeds of obli-

gations of political subdivisions pledged as within constitutional or statutory provisions which impose a limit on state indebtedness or require consent of electors, 100 ALR 1114.

Mistake, ambiguity, or omission in statement as to indebtedness, in call for

election or proposal for bond issue, as affecting validity of election or bonds issued pursuant thereto, 116 ALR 1258.

Effect of delay after authorization by voters on power of governmental unit to issue bonds, 135 ALR 768.

Validity, within authorized debt, tax, or voted limit, of bond issue in excess of amount permitted by law, 175 ALR 823.

Sec. 37.15.020. Manner and amounts of sale. The state bond committee shall sell the bonds of each authorization in the amounts or series and at the times which it finds are for the best interests of the state and its inhabitants. (§ 1 ch 175 SLA 1960)

Sec. 37.15.030. Interest rate and maturity. Each issue or series of bonds shall bear interest at an effective rate over the life of the bonds not to exceed 11 percent a year or that rate of interest which is 110 percent of the rate of the Bond Buyer Index of 20 Municipal Bond Average Yields for the week previous to the date of sale of the bonds, whichever is higher. The bonds shall mature in not more than 30 years from date of issue, unless a longer period is specifically authorized by statute. (§ 1 ch 175 SLA 1960; am § 2 ch 104 SLA 1967; am § 1 ch 92 SLA 1970; am § 1 ch 29 SLA 1976; am § 1 ch 85 SLA 1980; am § 1 ch 110 SLA 1982)

Effect of amendments. — The 1980 amendment substituted "10" for "eight" preceding "percent a year" at the end of the first sentence.

The 1982 amendment substituted the language beginning "11 percent a year" for

"10 percent a year" at the end of the first sentence.

Collateral references. — Right to call governmental bonds in advance of their maturity, 109 ALR 988.

Sec. 37.15.040. Sale of bonds. Before selling an issue or series of bonds, the state bond committee shall give notice inviting sealed bids in such manner as it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If the state bond committee determines that the bids received are not satisfactory as to price or responsibility of the bidders, it may reject all bids received. (§ 1 ch 175 SLA 1960; am § 3 ch 104 SLA 1967; am § 1 ch 43 SLA 1969)

Sec. 37.15.050. Redemption. The state bond committee may determine whether the bonds are subject to redemption before their fixed maturities and may fix the premium for and all other terms of the redemption. No bond may be subject to redemption before its fixed maturity date unless the right to so redeem the bond is expressly mentioned on the face of the bond. (§ 1 ch 175 SLA 1960; am § 4 ch 104 SLA 1967; am § 1 ch 26 SLA 1968; am § 7 ch 143 SLA 1968)

Collateral references. — 81A C.J.S., States, § 261.

Funding or refunding obligations as subject to conditions respecting limitation

of indebtedness, 97 ALR 442.

Validity of bond issue in excess of amount permitted by law within authorized debt, tax or voted limit, 175 ALR 823.

Sec. 37.15.060. Form and registration of bonds. An issue or series of bonds may be issued in coupon form payable to bearer or in fully registered form, and bonds in coupon form may be made registrable as to principal or principal and interest, as determined by the state bond committee. (§ 1 ch 175 SLA 1960; am § 2 ch 26 SLA 1968)

Sec. 37.15.070. Place of payment. The state bond committee may fix the place or places of payment of the principal, interest and redemption premium, if any. (§ 1 ch 175 SLA 1960; am § 5 ch 104 SLA 1967)

Sec. 37.15.080. Signatures and seal. (a) Each bond shall be signed on behalf of the state by the governor and attested by the lieutenant governor, which signatures may be facsimile signatures. The seal of the state shall be impressed, imprinted or otherwise reproduced on each bond. Each interest coupon attached to the bond shall be signed by the facsimile signatures of the governor and lieutenant governor. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, the signature is, nevertheless, valid and sufficient for all purposes, as if the officer had remained in office until delivery.

(b) A signature required on a bond issued by a political subdivision of the state may be a facsimile signature. (§ 1 ch 175 SLA 1960; am § 6 ch 104 SLA 1967)

Collateral references. — Printing, lithographing, or other mechanical signature on public bonds, coupons, or other pecuniary obligation, 94 ALR 768.

Sec. 37.15.090. Terms and conditions. Each issue or series of bonds shall be issued under and subject to the terms, conditions, and covenants providing for the payment of the principal and the interest and other terms, conditions, covenants, and protective provisions safeguarding the payment as found reasonably necessary by the state bond committee for the most advantageous sale. The terms, conditions, and covenants may include the setting aside and maintaining of certain reserves to secure the payment of principal and interest. (§ 1 ch 175 SLA 1960)

Collateral references. — Effect of inclusion in call for election, or in proposal for bond issue submitted to people, of unauthorized method of payment or retirement, 93 ALR 362.

Power of legislature to add to or make more onerous the conditions or limitations

prescribed by Constitution upon incurring public debts, 106 ALR 231.

Power and discretion of officer or board authorized to issue bonds of governmental unit as regards terms or conditions to be included therein, 119 ALR 190.

Sec. 37.15.100. Trustee. If the state bond committee finds it necessary to accomplish the most advantageous sale of the bonds, the committee shall select a trustee for the owners and holders of the bonds or for the safeguarding and disbursement of the proceeds of the sale of the bonds for the use and purpose for which issued, and shall fix the rights, duties, powers, and obligations of the trustee. (§ 1 ch 175 SLA 1960)

Sec. 37.15.110. Creation and membership of state bond committee. There is created a committee known as the "state bond committee," the members of which are the commissioner of commerce and economic development, the commissioner of administration, and the commissioner of revenue. If a member of the committee is absent or otherwise unable to act, the member's designee in the department shall act as a member of the committee in the member's place. (§ 2 ch 175 SLA 1960; am § 7 ch 104 SLA 1967; am § 81 ch 218 SLA 1976)

Sec. 37.15.120. Regulations. The state bond committee may adopt regulations for the performance of its duties and may designate by resolution one of its members to perform any act necessary to effectuate its duties not required by statute to be performed by the state bond committee in meeting or by resolution, or by another officer of the state. (§ 2 ch 175 SLA 1960; am § 8 ch 104 SLA 1967)

Sec. 37.15.130. Officers, records and proceedings. The commissioner of commerce and economic development is the chairman of the state bond committee and the commissioner of revenue is the secretary. A majority of the members of the committee constitute a quorum. The committee shall keep a full, complete, and permanent record of its proceedings. All records and correspondence of the committee shall be kept in the office of the commissioner of revenue. (§ 2 ch 175 SLA 1960; am § 82 ch 218 SLA 1976)

Collateral references. — Personal liability of officers to holders of invalid public money obligations, 87 ALR 273.

Sec. 37.15.140. Duties of state bond committee. The state bond committee shall adopt the resolution and prepare the documents necessary for the issuance, sale, and delivery of bonds. (§ 3 ch 175 SLA 1960)

Sec. 37.15.150. Committee may employ special services. If the state bond committee considers it necessary and advisable, it may procure architectural or engineering, fiscal agent or municipal investment, legal and other expert or specialized services at reasonable and customary fees to assist it in accomplishing the most advantageous sale of the bonds. The fees may be paid from the proceeds of the sale or advanced from the contingency fund in the office of the governor or otherwise. (§ 3 ch 175 SLA 1960)

Sec. 37.15.155. Prohibited bidding on bonds and anticipation notes. (a) No person who provides financial programming or marketing assistance to the state bond committee in connection with the issuance or sale of general obligation bonds, revenue bonds or bond anticipation notes of the state may bid on the bonds.

(b) The sale of general obligation bonds, revenue bonds or bond anticipation notes of the state to a person who is prohibited from bidding on the bonds or notes under (a) of this section is against public policy and the sale is void.

(c) In this section "person" means an individual, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker. (§ 1 ch 192 SLA 1974)

Sec. 37.15.160. Contents of resolution. The resolution adopted by the state bond committee shall

(1) fix the principal amount, denominations, date, maturities, place of payment, terms, right of redemption if any, form, conditions and covenants of the bonds;

(2) fix the date of sale and the form of the notice of sale; and

(3) provide if the notice is to be published elsewhere in addition to the publication required by AS 37.15.040. (§ 3 ch 175 SLA 1960; am § 3 ch 26 SLA 1968)

Sec. 37.15.170. State bond committee to certify annual principal, interest, and reserve requirements. (a) Before January 1 of each year after bonds are issued, the state bond committee shall certify to the commissioner of administration the amount needed for the following calendar year to meet principal, interest, and reserve requirements on all bonds or issues or series of bonds then outstanding.

(b) The commissioner of administration shall set aside these amounts or make the necessary provisions for the setting aside of these amounts so that there will be sufficient money to pay the principal and interest on the due date and to meet reserve requirements. (§ 4 ch 175 SLA 1960)

Sec. 37.15.180. Remedies of bondholders. The owner and holder of each bond or the trustee may by appropriate proceeding require and compel the transfer and payment of money as directed by this chapter (§ 4 ch 175 SLA 1960)

Sec. 37.15.190. Negotiability. General obligation bonds of the state and the coupons attached to the bonds are negotiable instruments. (§ 5 ch 175 SLA 1960)

Collateral references. — Negotiability of state warrants, 36 ALR 9-19.

Sec. 37.15.200. Bonds as legal investments. General obligation bonds of the state are legal investments for all state funds, or for funds under state control, and for all funds of a political subdivision of the state. (§ 5 ch 175 SLA 1960)

Sec. 37.15.210. Refunding bonds. (a) All or a part of the general obligation bonds of the state, or all or a part of each outstanding issue or series of bonds, may be refunded at or before maturity by the issuance of general obligation refunding bonds of the state if, in the opinion of the state bond committee, refunding is advantageous to and in the best interest of the state and its inhabitants. Money set aside as reserve to secure the payment of the principal and interest of bonds being refunded may be used to pay the principal and interest on these bonds or may be retained by the state to secure the payment of the principal and interest on the refunding bonds to be issued.

(b) Refunding bonds and the coupons attached to them are negotiable instruments. The effective rate of interest over the life of refunding bonds may not exceed 11 percent a year or that rate of interest which is 110 percent of the rate of the Bond Buyer Index of 20 Municipal Bond Average Yields for the week previous to the date of sale of bonds, whichever is higher, and the amount of premium which is paid to effect the redemption of outstanding bonds may not be considered in determining the effective rate of interest.

(c) Refunding bonds may be exchanged for the bonds being refunded or refunding bonds may be sold in the manner and at the prices which the state bond committee determines to be for the best interest of the state and its inhabitants either at public or private sale.

(d) The issuance of refunding bonds need not be authorized by the qualified voters of the state. The state bond committee shall adopt the resolution and prepare the documents necessary for the issuance, exchange or sale, and delivery of refunding bonds. The provisions of this chapter relating to the terms, conditions, covenants, issuance, and sale of general obligation bonds of the state apply to refunding bonds except as otherwise specifically provided in this section. (§ 6 ch 175 SLA 1960; am § 2 ch 92 SLA 1970; am § 2 ch 85 SLA 1980; am § 2 ch 110 SLA 1982)

Effect of amendments. — The 1980 amendment substituted "10" for "seven" preceding "percent a year" in the second sentence of subsection (b).

The 1982 amendment substituted the language beginning "11 percent a year" and ending "date of sale of bonds, whichever is higher" for "10 percent a

year" in subsection (b).

Collateral references. — Funding or refunding obligations as subject to conditions respecting limitation of indebtedness or approval by voters, 97 ALR 442.

Power of governmental unit to issue bonds as implying power to refund them, 1 ALR2d 134.

Sec. 37.15.215. Official statements. To the extent practicable the official statements and other documentation issued in connection with an offering of state or local government securities shall comply with

the guidelines of the Municipal Finance Officers Association or other nationally recognized guidelines. (§ 12 ch 168 SLA 1978)

Sec. 37.15.220. Short title. AS 37.15.010 — 37.15.220 may be cited as the State Bonding Act. (§ 7 ch 175 SLA 1960; am § 54 ch 127 SLA 1974)

Article 2. Bond Anticipation Notes.

<p>Section</p> <p>300. Borrowing in anticipation of sale of bonds permitted</p> <p>310. Issuance of notes</p> <p>330. Repayment of notes</p> <p>340. Security for repayment of general obligation bonds</p>	<p>Section</p> <p>350. Security for repayment of revenue bonds</p> <p>360. Limitation on issuance of notes</p> <p>370. Use of proceeds from sale of notes</p> <p>380. Sale of notes</p> <p>390. Execution of notes</p>
--	---

Sec. 37.15.300. Borrowing in anticipation of sale of bonds permitted. When the state bond committee considers it in the best interests of the state, it may borrow money in anticipation of the sale of general obligation and revenue bonds, if

(1) the general obligation bonds to be sold have been authorized by law and ratified by a majority vote of the qualified voters of the state who vote on the question; or

(2) the general obligation bonds to be sold have been authorized by law for the purpose of meeting natural disasters, repelling invasion, suppressing insurrection, or defending the state in war; or

(3) the revenue bonds to be sold have been authorized by law; and

(4) money to be derived from the sale of general obligation and revenue bonds has been appropriated by the legislature. (§ 1 ch 42 SLA 1964; am § 1 ch 74 SLA 1964)

Sec. 37.15.310. Issuance of notes. The state bond committee shall issue notes for the amounts borrowed with a maturity date not to exceed one year from the date of issue. All the notes are payable at a fixed place, on or before a fixed time, or at a fixed time, from the proceeds of the sale of bonds, in anticipation of which the original note or notes were issued, unless the bonds have not been sold by the maturity date of the notes. Interest on the notes is payable at a fixed place, on or before a fixed time, out of appropriations made for the payment of interest on general obligation notes or bonds of the state. (§ 1 ch 42 SLA 1964; am § 1 ch 127 SLA 1976)

Sec. 37.15.320. Issuance of new notes. [Repealed, § 3 ch 41 SLA 1967.]

Sec. 37.15.330. Repayment of notes. Every note shall be payable from the proceeds of the next succeeding sale of bonds or from the proceeds of the sale of new bond anticipation notes. (§ 1 ch 42 SLA 1964)

Sec. 37.15.340. Security for repayment of general obligation bonds. Notes issued in anticipation of the sale of general obligation bonds and the interest thereon are secured by the full faith, credit, and resources of the state. (§ 1 ch 42 SLA 1964)

Sec. 37.15.350. Security for repayment of revenue bonds. Notes issued in anticipation of the sale of revenue bonds and the interest thereon are secured in the same manner as are the revenue bonds in anticipation of which the notes are issued. (§ 1 ch 42 SLA 1964)

Sec. 37.15.360. Limitation on issuance of notes. The total amount of such notes issued and outstanding shall at no time exceed the total amount of bonds authorized to be issued. (§ 1 ch 42 SLA 1964)

Sec. 37.15.370. Use of proceeds from sale of notes. The proceeds from the sale of the notes shall be used only for the purposes for which the proceeds from the sale of bonds may be used or to meet payment of outstanding bond anticipation notes. (§ 1 ch 42 SLA 1964)

Sec. 37.15.380. Sale of notes. Notes issued under this chapter shall be sold by the state bond committee in such manner and at such price or prices as it shall determine, at either public or private sale; however, no such note shall be sold for less than par and accrued interest or at an interest rate exceeding 11 percent a year or that rate of interest which is 110 percent of the rate of Bond Buyer Index of 20 Municipal Bond Average Yields for the week previous to the date of sale of the notes, whichever is higher. (§ 1 ch 42 SLA 1964; am § 3 ch 92 SLA 1970; am § 3 ch 85 SLA 1980; am § 3 ch 110 SLA 1982)

Effect of amendments. — The 1980 amendment substituted "10" for "seven" preceding "percent a year" at the end of the section.

The 1982 amendment substituted the language beginning "11 percent a year" for "10 percent a year" at the end of the section.

Sec. 37.15.390. Execution of notes. Notes for money borrowed in anticipation of receipts from the sale of bonds shall be signed by the governor and countersigned by the lieutenant governor. The governor's and lieutenant governor's signatures may be facsimile signatures. (§ 1 ch 42 SLA 1964; am § 4 ch 110 SLA 1982)

Effect of amendments. — The 1982 amendment substituted the present second sentence for the former sentence,

which read: "The governor's signature may be a facsimile signature."

Article 3. International Airports Revenue Bonds.

<p>Section</p> <p>410. Bond authorization</p> <p>420. Construction fund</p> <p>430. Revenue fund</p> <p>440. Redemption fund</p> <p>450. Bond terms</p> <p>460. Bond resolution</p> <p>470. Enforcement by holder</p> <p>480. Amounts required for payments</p>	<p>Section:</p> <p>490. Bond negotiability</p> <p>500. Airport charges</p> <p>510. State improvements to airports</p> <p>520. Refunding</p> <p>530. Bonds as legal investments</p> <p>540. Statutory construction</p> <p>550. Definitions</p>
--	--

Legislative history reports. — For report on ch. 149, SLA 1972 (CSHB 531), see 1972 House Journal, p. 1233.

Sec. 37.15.410. Bond authorization. For the purpose of providing part or all of the money to be used, with or without any grants or other money which may become available, the issuance and sale of revenue bonds of the state in the total principal sum of not to exceed \$62,825,000 is authorized to acquire, equip, construct and install the additions, improvements, extensions and facilities authorized in AS 37.15.510. The principal of and interest on these bonds shall be paid out of and secured by the gross revenues derived by the state from the ownership, lease, use and operation of the airports, and of all the facilities of them and out of any other revenues or money which the state legislature may provide exclusive of any state tax or license. (§ 1 ch 149 SLA 1972; am § 1 ch 66 SLA 1974; am § 1 ch 68 SLA 1979; am § 1 ch 11 SLA 1982; am § 1 ch 25 SLA 1983)

Effect of amendments. — The 1979 amendment substituted "\$43,325,000" for "\$34,825,000" in the first sentence. The 1982 amendment, substituted "\$34,825,000" for "\$43,325,000" in the first sentence. The 1983 amendment substituted

"\$62,825,000" for "\$34,825,000" in the first sentence. **Editor's notes.** — See ch. 69, SLA 1979 in Temporary and Special Acts and Resolves for the appropriation of the increase in bonds authorized by ch. 68, SLA 1979.

Sec. 37.15.420. Construction fund. (a) There is a special fund of the state known as the "International Airports Construction Fund," into which shall be paid the proceeds of the sale of the bonds (except any accrued interest paid on them, which shall be paid into the bond redemption fund) and any grant or other money which is legally provided for the same purposes for which the bonds are authorized. The money in the construction fund shall be used to pay the costs of acquiring, equipping, constructing and installing additions and improvements to and extensions of and facilities for the airports and costs incidental thereto including costs of the authorization issuance and

sale of the bonds. To the extent provided in the bond resolution, money in the construction fund may also be used for the payment of interest on the bonds during the period of actual construction, and for such further period, not exceeding one year after the period of construction, as may be provided in the bond resolution. Money in the construction fund may also be transferred to the bond redemption fund, to the extent provided in the bond resolution, to establish a reserve for the payment of the principal of and interest on the bonds.

(b) The bond resolution may provide for the investment of money in the construction fund in such manner as the committee may determine. The interest earned upon or any profits derived from the sale of this investment shall be deposited in and become a part of the construction fund. (§ 1 ch 149 SLA 1972)

Cross references. — For initial appropriations to fund, see section 2, ch. 149, SLA 1972, Temporary and Special Acts.

Opinions of Attorney General. — This fund does not represent an unconstitutional dedication of public funds under § 7, art. 1 of the state constitution, as that section of the constitution con-

tains an implied exception for revenue derived from bond issues and for revenue derived from facilities constructed with bond proceeds, at least to the extent that it is necessary to satisfy the debt obligation or maintain the facility so that it continues to generate revenues for that purpose. November 30, 1982, Op. Att'y Gen.

Sec. 37.15.430. Revenue fund. (a) There is another special fund of the state, known as the "International Airports Revenue Fund," which shall be completely segregated and set apart from all other funds of the state, which is a trust fund for the uses and purposes provided in AS 37.15.410 — 37.15.550, and into which shall be paid all revenues, fees, charges and rentals derived by the state from the ownership, lease, use and operation of the airports and all of the facilities and improvements of them and facilities and improvements used in connection with them. These revenues, charges, fees and rentals shall not include the proceeds of any state tax or license. The money in the revenue fund shall only be used for the purpose of paying or securing the payment of the principal of and interest on the bonds and of and on any other revenue bonds issued by authorization of the legislature to provide funds to acquire, equip, construct and install additions and improvements to, and extensions of and facilities for, the airports and to be payable out of the revenue fund, the purpose of paying the normal and necessary costs of maintaining and operating the airports and all of the improvements and facilities of them, the purpose of paying the costs of renewals, replacements and extraordinary repairs to the airports and all of the improvements and facilities of them, the purpose of redeeming before their fixed maturities any and all revenue bonds issued for the purposes of the airports, the purpose of providing funds to acquire, construct and install necessary additions and improvements to and extensions of and facilities for the airports and all of their facilities, and the purpose of providing funds to pay any and all other

(b) The investment of money in the revenue fund may be made in such manner as the committee may determine. The interest earned upon or any profits derived from the sale of this investment shall be deposited in and become a part of the revenue fund. (§ 1 ch 149 SLA 1972)

Opinions of Attorney General. — This fund does not represent an unconstitutional dedication of public funds under § 7, art. IX, of the state constitution, as that section of the constitution contains an implied exception for revenue derived from bond issues and for revenue

derived from facilities constructed with bond proceeds, at least to the extent that it is necessary to satisfy the debt obligation or maintain the facility so that it continues to generate revenues for that purpose. November 30, 1982, Op. Att'y Gen.

Sec. 37.15.440. Redemption fund. There is another special fund of the state, known as the "International Airports Revenue Bond Redemption Fund," which is a trust fund for paying and securing the payment of the principal of and interest and redemption premium, if any, on the bonds and which shall be at all times completely segregated and set apart from all other funds of the state. The committee, on behalf of the state, shall obligate and bind the state to set aside and pay into the bond redemption fund any part or parts of, or all of, or a fixed proportion of, or a fixed amount of the money in the revenue fund sufficient to pay the principal of and interest and redemption premium, if any, on the bonds as the payments become due and, if it considers it necessary, to set aside and maintain reserves for this purpose. The bond redemption fund shall be drawn upon for the purpose of paying the principal of and interest and redemption premium, if any, on the bonds, and the bonds do not constitute a general obligation of the state. (§ 1 ch 149 SLA 1972)

Opinions of Attorney General. — This fund does not represent an unconstitutional dedication of public funds under § 7, art. IX, of the state constitution, as that section of the constitution contains an implied exception for revenue derived from bond issues and for revenue

derived from facilities constructed with bond proceeds, at least to the extent that it is necessary to satisfy the debt obligation or maintain the facility so that it continues to generate revenues for that purpose. November 30, 1982, Op. Att'y Gen.

Sec. 37.15.450. Bond terms. (a) The bonds shall be sold in such amounts or series and at such time or times as determined by the committee. Before selling a series of bonds, the committee shall give notice inviting sealed bids in such manner as it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If the committee determines that the bids received are not satisfactory as to price or responsibility of the bidders, it may reject all bids received. The bonds, or each series of them, shall be sold at such a price so that the effective interest rate over the life of the bonds does not exceed 11 percent per year or that

rate of interest which is 125 percent of the rate of the Bond Buyer Index of 20 Municipal Bond Average Yields for the week previous to the date of sale of the bonds, whichever is higher. Interest shall be payable annually or semiannually.

(b) The bonds shall mature at such time or times as fixed by the committee. The bonds may be subject to redemption before their fixed maturities as determined by the committee and with such premium or premiums as fixed by the committee, but no bond may be subject to redemption before its fixed maturity date unless the right so to redeem that bond is expressly mentioned on the face of the bond. The bonds may be in denominations determined by the committee; may be issued in coupon form or in fully registered form, and may be registrable as to principal or both principal and interest, all under such regulations and conditions as the committee shall provide; shall be payable as to principal and interest at such place or places as may be determined by the committee; shall be signed on behalf of the state by the governor and shall be attested by the lieutenant governor, both of which signatures may be facsimile signatures; shall have the seal of the state impressed, printed or lithographed on them, and each of the interest coupons attached to them shall be signed by the facsimile signatures of these officials; shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal of them and interest on them and such other terms, conditions, covenants and protective features safeguarding this payment and relating to the maintenance, operation and improvement of the airports as found necessary by the committee, which covenants may include a provision requiring the setting aside and maintenance of certain reserves to secure the payment of this principal and interest. The committee may provide that any additional bonds authorized after June 27, 1972 by the legislature to be payable out of the same source or sources as the bonds authorized as of that date may later be issued on a parity with the bonds authorized as of that date upon compliance with any conditions which the committee may prescribe.

(c) If found reasonably necessary, the committee may select a trustee or trustees for the holders of the bonds or any series of them, for the safeguarding and disbursement of any of the money in any of the funds created by AS 27.15.420, 37.15.430 and 37.15.440, or for such duties with respect to the authentication, delivery and registration of the bonds as the committee may determine, and shall fix the rights, duties, powers and obligations of the trustee or trustees.

(d) In its determination of all of the matters and questions relating to the issuance and sale of the bonds and the fixing of the maturities, terms, conditions and covenants of them as provided in (a), (b) and (c) of this section, the decisions of the committee shall be those found to be reasonably necessary for the best interests of the state and its inhabitants, and those which will accomplish the most advantageous sale of

the bonds, with due regard, however, to necessary or normal costs of maintenance and operation, renewals and replacements of and repairs to the airports and to all improvements to them and facilities of them owned, used, operated or leased in connection with them, the future growth and expansion of the airports and all of such facilities, and the possibility of additional revenue bond financing for airports purposes. Any such decisions of the committee, as expressed in any bond resolution, are final and conclusive when any bonds have been issued pursuant to the bond resolution.

(e) A bond resolution may provide that the bonds issued shall contain a recital that they are issued under AS 37.15.410 — 37.15.550, and any such bonds containing this recital shall be conclusively considered to be valid and to have been issued in conformity with AS 37.15.410 — 37.15.550.

(f) The validity of the authorization and issuance of bonds is not affected by any proceedings for the acquisition or construction of the additions, improvements, extensions or facilities for which the bonds have been issued or by any contracts in connection with the acquisition or construction. (§ 1 ch 149 SLA 1972; am §§ 1, 2 ch 19 SLA 1973; am § 4 ch 85 SLA 1980; am § 5 ch 110 SLA 1982)

Revisor's notes. — AS 37.15.450 was derived from § 7, ch. 88, SLA 1961, as amended by § 8, ch. 62, SLA 1968 and § 3, ch. 173, SLA 1970. In the last sentence of what is now designated subsection (b), the only differences between the wording here and in those earlier versions are that "hereafter" was changed to "after the effective date of this Act" and "authorized by this Act" (in two places) was changed to "authorized as of that date." The latter change suggests that the date referred to in the former change is June 27, 1972, the effective date of the Act putting these provisions in the Alaska Statutes, rather than

April 15, 1961, the effective date of the original international airports bond authorization Act. Therefore, under AS 03.05.031(b)(5), the 1972 date has been inverted in the text.

Effect of amendments. The 1980 amendment substituted "10" for "eight" preceding "percent per year" near the end of the next-to-last sentence of subsection (a).

The 1982 amendment substituted the language beginning "11 percent per year" for "10 percent per year" at the end of the next-to-last sentence of subsection (a).

Sec. 37.15.460. Bond resolution. The committee is authorized and directed to adopt the bond resolution and prepare all other documents and proceedings necessary for the issuance, sale and delivery of the bonds or any part or series of them. The bond resolution shall fix the principal amount, denomination, date, maturities, place or places of payment, rights of redemption, if any, terms, form, conditions and covenants of the bonds or each series of them. The committee shall also determine and provide for the date and manner of sale of the bonds, and shall provide whether the notice of sale is to be published elsewhere in addition to the publication required by AS 37.15.450. (§ 1 ch 149 SLA 1972)

Sec. 37.15.470. Enforcement by holder. The holder of any bonds or the trustee for the holders of the bonds or any series of them, may by appropriate proceedings in the courts of record of the state, require and compel the transfer, setting aside and payment of money and the enforcement of all of the terms, conditions and covenants as required and provided in AS 37.15.410 — 37.15.550 and in the bond resolution. (§ 1 ch 149 SLA 1972)

Sec. 37.15.480. Amounts required for payments. The committee shall, before December 31 of each year, commencing with the year in which the bonds are issued, certify to the commissioners of revenue and transportation and public facilities the amounts required in the next ensuing calendar year by the bond resolution or resolutions to be paid out of the revenue fund into the bond redemption fund and to be paid into and maintained in any reserve fund or account or any other fund or account created by the bond resolution or resolutions, and shall also certify to the commissioners the last date or dates upon which payments may be made. (§ 1 ch 149 SLA 1972)

Sec. 37.15.490. Bond negotiability. The bonds and the coupons attached to them are fully negotiable instruments under the laws of the state. (§ 1 ch 149 SLA 1972)

Sec. 37.15.500. Airport charges. The commissioner of transportation and public facilities shall fix and collect such fees, charges and rentals derived by the state from the ownership, lease, use and operation of the airports and all of the facilities and improvements of them or used in connection with them as will provide revenues sufficient to comply with all of the covenants of the bond resolution. (§ 1 ch 149 SLA 1972)

Sec. 37.15.510. State improvements to airports. The state is authorized to acquire, equip, construct and install additions and improvements to and extensions of the airports, facilities for the landing, parking, loading, storing, repairing, safety and utility of aircraft at the airports and passenger, freight and terminal facilities, including safety equipment and devices at the airports, found to be necessary by the commissioner of transportation and public facilities. (§ 1 ch 149 SLA 1972)

Sec. 37.15.520. Refunding. (a) The bonds or any part of them may be refunded at or before their maturity by the issuance of refunding revenue bonds of the state if in the opinion of the committee refunding is advantageous to and in the best interests of the state and its inhabitants.

(b) The issuance of refunding bonds need not be authorized by an Act of the legislature, and the committee is authorized and directed to adopt the resolution or resolutions and prepare all other documents and proceedings necessary for the issuance, exchange or sale, and

delivery of such bonds. All provisions of AS 37.15.410 — 37.15.550 applicable to revenue bonds are applicable to the refunding bonds and to the issuance, sale or exchange of them, except as otherwise provided in this section.

(c) Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds to be refunded by them, and, in addition, for the payment of all expenses incident to the calling, retiring or paying of the outstanding bonds, and the issuance of the refunding bonds. These expenses include the difference in amount between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold, any amount necessary to be made available for the payment of interest upon the refunding bonds from the date of sale of them to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to the call of them or agreement with the holders of them, and the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing on them to the date of the call or retirement. (§ 1 ch 149 SLA 1972)

Collateral references. — Funding or refunding obligations as subject to conditions respecting limitation of indebtedness or approval by voters, 97 ALR 442.

Power of governmental unit to issue bonds as implying power to refund them, 1 ALR2d 134.

Sec. 37.15.530. Bonds as legal investments. The bonds are legal investments for all banks, trust companies, savings banks, savings and loan associations and other persons carrying on a banking business, all insurance companies and other persons carrying on an insurance business, and all executors, administrators, trustees and other fiduciaries. The bonds may be accepted as security for deposits of all funds of the state and its political subdivisions. (§ 1 ch 149 SLA 1972)

Sec. 37.15.540. Statutory construction. AS 37.15.410 — 37.15.550 shall be liberally construed in order to carry out the purposes for which they were enacted, and all existing laws in conflict with any of these sections are superseded insofar as necessary to accomplish the purposes of and carry out the provisions of these sections. (§ 1 ch 149 SLA 1972)

Sec. 37.15.550. Definitions. As used in AS 37.15.410 — 37.15.550, unless the context otherwise requires:

(1) "airports" means the international airports owned and operated by the state and located at or near the cities of Anchorage and Fairbanks;

(2) "bond redemption fund" means the International Airports Revenue Bond Redemption Fund created by AS 37.15.440, including any accounts which are created in that fund after June 27, 1972;

(3) "bond resolution" means the resolution or resolutions authorizing the issuance of bonds, adopted by the committee under AS 37.15.460;

(4) "bonds" means the international airports revenue bonds authorized by AS 37.15.410 — 37.15.550;

(5) "commissioner of transportation and public facilities" means the principal executive officer of the Department of Transportation and Public Facilities of the state as provided in AS 44.42.010, or a successor;

(6) "commissioner of revenue" means the principal executive officer of the Department of Revenue of the state as provided in AS 44.25.010, or a successor;

(7) "committee" means the state bond committee created by AS 37.15.110, or any other committee, body, department or officer of the state which or who succeeds to the rights, powers, duties and obligations of the state bond committee by lawful Act of the legislature;

(8) "construction fund" means the International Airports Construction Fund created by AS 37.15.420;

(9) "revenue fund" means the International Airports Revenue Fund created by AS 37.15.430. (§ 1 ch 149 SLA 1972)

37.15.090

within autho-
175 ALR 823.

1 issue or
arar or in
be made
rmined by
h 26 SLA

ittee may
erest and
104 SLA

he signed
ieutenant
he seal of
duced on
he signed
vernor. If
ceases to
ertheless,
ained in

bdvision
0; am § 6

s, or other
768.

series of
ions, and
interest
rovisions
the state
nditions,
g of cer-
(\$ 1 ch

incurring

r or board
ernmental
ions to be

§ 37.15.100

PUBLIC FINANCE

§ 37.15.150

Sec. 37.15.100. Trustee. If the state bond committee finds it necessary to accomplish the most advantageous sale of the bonds, the committee shall select a trustee for the owners and holders of the bonds or for the safeguarding and disbursement of the proceeds of the sale of the bonds for the use and purpose for which issued, and shall fix the rights, duties, powers, and obligations of the trustee. (§ 1 ch 175 SLA 1960)

Sec. 37.15.110. Creation and membership of state bond committee. There is created a committee known as the "state bond committee," the members of which are the commissioner of commerce and economic development, the commissioner of administration, and the commissioner of revenue. If a member of the committee is absent or otherwise unable to act, the member's designee in the department shall act as a member of the committee in the member's place. (§ 2 ch 175 SLA 1960; am § 7 ch 104 SLA 1967; am § 81 ch 218 SLA 1976)

Sec. 37.15.120. Regulations. The state bond committee may adopt regulations for the performance of its duties and may designate by resolution one of its members to perform any act necessary to effectuate its duties not required by statute to be performed by the state bond committee in meeting or by resolution, or by another officer of the state. (§ 2 ch 175 SLA 1960; am § 8 ch 104 SLA 1967)

Sec. 37.15.130. Officers, records and proceedings. The commissioner of commerce and economic development is the chairman of the state bond committee and the commissioner of revenue is the secretary. A majority of the members of the committee constitute a quorum. The committee shall keep a full, complete, and permanent record of its proceedings. All records and correspondence of the committee shall be kept in the office of the commissioner of revenue. (§ 2 ch 175 SLA 1960; am § 82 ch 218 SLA 1976)

Collateral references. — Personal liability of officers to holders of invalid public money obligations, 87 ALR 273.

Sec. 37.15.140. Duties of state bond committee. The state bond committee shall adopt the resolution and prepare the documents necessary for the issuance, sale, and delivery of bonds. (§ 3 ch 175 SLA 1960)

Sec. 37.15.150. Committee may employ special services. If the state bond committee considers it necessary and advisable, it may procure architectural or engineering, fiscal agent or municipal investment, legal and other expert or specialized services at reasonable and customary fees to assist it in accomplishing the most advantageous sale of the bonds. The fees may be paid from the proceeds of the sale or advanced from the contingency fund in the office of the governor or otherwise. (§ 3 ch 175 SLA 1960)

paragraph (21) of this section as amended by ch. 112, SLA 1982.

The second 1982 amendment rewrote this section.

The 1983 amendment rewrote paragraph (13).

Editor's notes. — AS 47.30.340, referred to in paragraph (13) was repealed by § 7, ch. 84, SLA 1981.

Sec. 39.25.120. Partially exempt service. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) — (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of councils, boards, or commissions established by statute in the Office of the Governor or the office of the lieutenant governor, unless a different classification is provided by statute;

(6) the executive director, deputy director, hearing officers, and administrative law judges of the Alaska Public Utilities Commission;

(7) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(8) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is amended under AS 39.25.130 to include the additional special assistant

(9) the principal executive officer of the following boards, councils, or commissions:

- (A) Alaska Public Broadcasting Commission;
- (B) Professional Teaching Practices Commission;
- (C) Parole Board;
- (D) Board of Nursing;
- (E) Real Estate Commission;

- (F) Alaska Royalty Commission;
- (G) Alaska Historical Commission;
- (H) Alaska State Council on Science and Technology;
- (I) Alaska Police Standards Council;
- (J) Council on Science and Technology;
- (K) Older Alaskans Commission;
- (10) Alaska Pioneers Commission;
- (11) hearing examiners;
- (12) the comptroller in charge;

- (13) investment office;
- (14) airport management office;
- (15) the deputy director of the division of Public Facilities employment and Economic Development;
- (16) the executive director of the Alaska Public Facilities Commission;

- (17) the director, deputy director, relations analysts I, labor relations research directors of the Department of Administration;

- (18) the rehabilitation board. (§ 6 ch 144 SLA 1961; am § 4 ch 5 109 SLA 1969; am § 4 ch 82 SLA 1975; am § 19 ch 263 SLA 1978; No. 41 § 3 (1980); am Executive Order No. 4 (1980); am Executive Order 46 § 4 (1980); am § 18 § 4 ch 110 SLA 1981; am § 50 SLA 1982; am §

Effect of amendments. 1981 amendment added a paragraph to this section as it existed prior to the 1982 amendment. The amendments are now contained in (c)(9)(K).

The second 1981 amendment added a comma for "and" prior to "deputy director" and added "hearing officers and administrative law judges" and "deputy director" in paragraph (c)(6).

§ 39.25.120

AS 47.30.340, paragraph (13) was repealed by AS 1981.

Positions in the par- classification plan ed according to the

Exempt service is not a place on a register, appeal board in case of the partially exempt established under AS

constitute the par-

Principal departments Assistant general of the

Principal departments of the Department

Department of Law and of

Principal department in

Positions established by the lieutenant Governor; hearing officers, and

Public Utilities Commission; Personnel, and hearing

Commissioner of each branch, but the number extended under AS

boards, councils,

§ 39.25.120

PUBLIC OFFICERS AND EMPLOYEES

§ 39.25.120

- (F) Alaska Royalty Oil and Gas Development Advisory Board;
- (G) Alaska Historical Commission;
- (H) Alaska State Council on the Arts;
- (I) Alaska Police Standards Council;
- (J) Council on Science and Technology;
- (K) Older Alaskans Commission;
- (10) Alaska Pioneers' Home managers;
- (11) hearing examiners in the Department of Revenue;
- (12) the comptroller in the division of treasury, Department of Revenue;
- (13) investment officers in the Department of Revenue;
- (14) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;
- (15) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;
- (16) the executive director and staff of the Alaska Public Offices Commission;
- (17) the director, deputy director, personnel analysts II, labor relations analysts I, labor relations analysts II, senior negotiators, and research directors of the division of labor relations in the Department of Administration;
- (18) the rehabilitation administrator of the Workers' Compensation Board. (§ 6 ch 144 SLA 1960; am § 2 ch 48 SLA 1961; am § 2 ch 133 SLA 1961; am § 4 ch 5 SLA 1966; am § 3 ch 104 SLA 1969; am § 2 ch 109 SLA 1969; am § 4 ch 78 SLA 1971; am § 9 ch 47 SLA 1974; am § 4 ch 82 SLA 1975; am § 10 ch 207 SLA 1975; am § 2 ch 157 SLA 1976; am § 19 ch 263 SLA 1976; am Executive Order No. 39 § 6 (1977); am § 1 ch 103 SLA 1978; am § 2 ch 108 SLA 1978; am Executive Order No. 41 § 3 (1980); am Executive Order No. 42 §§ 3, 4 (1980); am Executive Order No. 43 § 4 (1980); am Executive Order No. 44 § 5 (1980); am Executive Order No. 45 § 3 (1980); am Executive Order No. 46 § 4 (1980); am § 18 ch 115 SLA 1980; am § 3 ch 79 SLA 1981; am § 4 ch 110 SLA 1981; am Executive Order No. 48 § 3 (1981); am § 4 ch 50 SLA 1982; am § 26 ch 93 SLA 1982; am § 8 ch 112 SLA 1982)

Effect of amendments. — The first 1981 amendment added a paragraph (19) to this section as it existed prior to the third 1982 amendment. These provisions are now contained in subparagraph (c)(9)(K).

The second 1981 amendment substituted a comma for "and" preceding "deputy director" and added "hearing officers, and administrative law judges" following "deputy director" in present paragraph (c)(6).

The third 1981 amendment substituted "Department of Administration" for "Department of Environmental Conservation" in paragraph (17) of this section as it existed prior to the third 1982 amendment of this section. The provisions of that paragraph are now contained in subparagraph (c)(9)(J).

The first 1982 amendment added paragraph (c)(17).

The second 1982 amendment added paragraph (c)(18).

H

B

6

8

7

MEMORANDUM

State of Alaska

Department of Natural Resources

TO:

DATE:

Senate State Affairs Committee

FILE NO:

May 15, 1984

TELEPHONE NO:

FROM:

SUBJECT:

Carol J. Wilson *CW*
Special Assistant
to the Commissioner

HB 678

At your request, the Department of Natural Resources has developed the following two alternate ways of defining "World War II artifacts" in the CS for HB 678:

1. On line 12, before the word that add, "and man made objects used for the purpose of waging World War II in Alaska".
2. On line 15, after the word artifacts add, "including but not limited to vehicles, aircraft, watercraft, and parts thereof, and ordinance and other military equipment used to wage World War II in Alaska".

In addition, we would like to clarify the issue of private ownership of artifacts in Alaska. Sec. 41.35.020 of the 1971 Alaska Historic Preservation Act (copy attached) establishes that the state owns all historic, prehistoric and archeological resources situated on land owned or controlled by the state. If artifacts are found on federal or private land, or were found on state land before September, 1971, they do not belong to the state.



Official Business

Alaska State Legislature

Senate Committee on State Affairs

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

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senate State Affairs Committee Staff
RE: HB 678 Preservation of WW II Artifacts
DATE: May 7, 1984

HB 678 adds WW II artifacts to the definition of "historic, prehistoric and archaeological resources."

This amendment to the definition would make it illegal to appropriate, excavate, remove, injure, or destroy WW II artifacts without a permit.

Back-up information

fiscal note from Department of Public Safety
fiscal note from Department of Natural Resources

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 678
 Title: "An act relating to
 World War II artifacts"
 Sponsor: Representative Liska
 Requestor: House State Affairs
 Date of Request: March 3, 1984

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan ^{5/7/84} Phone: 269-5691
 Division: Alaska State Troopers Date: 03/02/84
 Approved by Commissioner: Robert J. Sundberg Date: 3/6/84
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

Fin. 1771 Public Safety 3/6/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/7/84

REQUEST
 Bill/Resolution No.: CS SSHB 678
 Title: Preservation of WW II
Artifacts
 Sponsor: Liska
 Requestor: Senate State Affairs
 Date of Request: _____

FISCAL DETAIL
 Agency Affected: DNR
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected:
Parks and Recreation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farouhar Phone: 465-2400
 Division: Commissioners' Date: 5/7/84

Approved by Commissioner: Ned Farouhar Date: _____
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Fiscal Note / Natural Resources 5/7/84

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 6, 1984

SUBJECT: Preservation of World War II artifacts
(SSHB 678)

TO: Representative John J. Liska

FROM: Tamara Brandt Cook
Deputy Director *TBC*
Division of Legal Services

You have asked whether the Alaska Historic Preservation Act provides protection for World War II artifacts and instruments used to wage war or whether the draft SSHB 678 is needed to ensure that these items are protected.

The Act protects "historic, prehistoric and archeological resources" which is defined in AS 41.35.230(4) to include:

. . . deposits, structures, ruins sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in the state as well as to the natural history or the state.

While this is a broad definition that could be construed to encompass at least certain World War II artifacts, it might also be that some artifacts would not be considered "objects of antiquity which provide information pertaining to the historical or prehistorical culture of people. . . ." At best, it is not clear that all World War II artifacts would be protected. Furthermore, it is quite likely that instruments used to wage war would not be included as "objects of antiquity", particularly with regard to instruments used in future wars.

Because the definition in AS 41.35.230(4) is so broad, it is not clear what items would necessarily be included within it. The draft would ensure that all World War II artifacts and instruments used in war are protected under the Alaska Historic Preservation Act.

TBC:ojb
J4/046

Memo. / Rep. Liska 3/6/84

§ 41.35.190

the committee
them and travel
missions. (§ 1 ch

etc., see AS

year, the com-
§ 1 ch 130 SLA

tees shall meet
called by the
members of the

shall
numents and
may be con-
gnificance as
ate;

administering
0-470n (P.L.

s that may be
ational Regis-
65, National

e legislature
programs for
archeological

regarding the
nd 29.48.110

040: recom-
eria for the
prove plans
purposes of
t revolving
Commerce
ulations for
71; am § 7

able appro-
rity of the
or the ser-

§ 41.35.200

PUBLIC RESOURCES

§ 41.35.230

vices of experts and other persons who may be needed. (§ 1 ch 130 SLA 1971)

Sec. 41.35.200. Unlawful acts. (a) A person may not appropriate, excavate, remove, injure, or destroy, without a permit from the commissioner, any historic, prehistoric or archeological resources of the state.

(b) A person may not possess, sell, buy or transport within the state, or offer to sell, buy or transport within the state, historic, prehistoric or archeological resources taken or acquired in violation of this section or 16 U.S.C. 433.

(c) A person may not unlawfully destroy, mutilate, deface, injure, remove or excavate a gravesite or a tomb, monument, gravestone or other structure or object at a gravesite, even though the gravesite appears to be abandoned, lost or neglected.

(d) An historic, prehistoric or archeological resource which is taken in violation of this section shall be seized by any person designated in AS 41.35.220 wherever found and at any time. Objects seized may be disposed of as the commissioner determines by deposit in the proper public depository. (§ 1 ch 130 SLA 1971; am § 8 ch 112 SLA 1974)

Sec. 41.35.210. Penalties. A person who violates a provision of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of \$1,000, or by imprisonment for not more than six months, or by both. (§ 1 ch 130 SLA 1971)

Sec. 41.35.220. Enforcement authority. The following persons are peace officers of the state and shall enforce this chapter:

- (1) an employee of the department authorized by the commissioner;
- (2) a peace officer in the state;
- (3) any other person authorized by the commissioner. (§ 1 ch 130 SLA 1971)

Cross references. — For definition of "peace officer," see AS 01.10.060(6).

Sec. 41.35.230. Definitions. In this chapter, unless the context otherwise requires,

- (1) "commissioner" means the commissioner of natural resources;
- (2) "committee" means the Historic Sites Advisory Committee;
- (3) "department" means the Department of Natural Resources;
- (4) "historic, prehistoric and archeological resources" includes deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in the state as well as to the natural history of the state. (§ 1 ch 130 SLA 1971)

under this chapter shall be not more than \$1,000,000. (§ 1 ch 83 SLA 1971)
 at revolving fund. There shall be a revolving fund which shall be used exclusively for the purposes of money appropriated by the legislature and made available for the purposes of this chapter.

it. The commissioner of revenue shall be the administrator of the fund and shall administer the fund. The commissioner of revenue shall determine the amount of money in the fund which the commissioner of revenue shall determine is needed for the purposes of this chapter.

eral fund. All money appropriated to the fund or a special fund is a revolving fund. All surplus at the end of a fiscal year shall be returned to the fund from the general fund. Repayments need not be made within one year after the fund is created.

upon discontinuance of federal assistance. If the federal program is discontinued for any reason, or if the area redevelopment revolving fund from which money was made available, and the remainder of the fund shall be returned to the general fund.

Historic Preservation Act.

- Section
- 0. Notice required of private persons
- 00. Excavation and removal of prehistoric or archeological resources on private land
- 10. Historic sites advisory committee
- 20. Composition of committee
- 30. Appointment of members
- 40. Term of membership
- 50. Compensation
- 60. Officers
- 70. Meetings and quorum
- 80. Duties of the committee
- 90. Powers of chairman
- 000. Unlawful acts
- 100. Penalties

Department authority
 Chapter

committee report. — For
 SLA 1971 (HCSSB 119 am
 House Journal, p. 579.

§ 41.35.010. Declaration of policy. It is the policy of the state to preserve and protect the historic, prehistoric and archeological resources of Alaska from loss, desecration and destruction so that the historic and cultural heritage embodied in these resources shall be undiminished to future generations. To this end, the commissioner of public resources finds and declares that the historic, prehistoric and archeological resources of the state are properly the subject of concerted and coordinated efforts exercised on behalf of the general welfare of the state in order that these resources may be located, preserved, exhibited and evaluated. (§ 1 ch 130 SLA 1971)

§ 41.35.020. Title to historic, prehistoric and archeological resources; local display. (a) The state reserves to itself title to all historic, prehistoric and archeological resources situated on land owned or controlled by the state, including tideland and submerged land, and to itself the exclusive right of field archeology on state-owned land. However, nothing in this chapter diminishes the rights and responsibilities of persons of aboriginal descent or their heirs upon their right of possession and use of those resources which are considered of historic, prehistoric or archeological value.

Although title to historic, prehistoric and archeological resources of the state, local cultural groups may obtain from the state, or retain, custody or display, artifacts and other items of these resources from any of the respective cultures or areas if the advisory committee created in accordance with this chapter finds that (1) the group has a durable building with fireproof and fireproof construction and humidity control and other facilities necessary to serve as a museum which will assure safe preservation of the items, (2) the item sought to be obtained is not one for which there is an undue risk of damage during transportation, and (3) the item sought to be obtained or retained is not one requiring special treatment or care beyond the ability or means of the group requesting custody. A group retaining such an item or obtaining one from the state shall store it in the museum building and shall make every reasonable effort to ensure its safe preservation. If the advisory committee finds that a local cultural group is not properly taking care of an item the group shall return it to the department. (§ 1 ch 130 SLA 1971)

Title 42
 Public Utilities
 and Carriers

Call Jim Cook

Offered: 3/20/84
Referred: Judiciary

Original sponsors: Liska and Barnes

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
 2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 678 (State Affairs)
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA
 4 THIRTEENTH LEGISLATURE - SECOND SESSION
 5 A BILL
 6 For an Act entitled: "An Act relating to the preservation of World War II
 7 artifacts."
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
 9 * Section 1. AS 41.35.230(4) is amended to read:
 10 (4) "historic, prehistoric and archeological resources"
 11 includes deposits, structures, ruins, sites, buildings, graves, arti-
 12 facts, fossils, or other objects of antiquity that [WHICH] provide
 13 information pertaining to the historical or prehistorical culture of
 14 people in the state as well as to the natural history of the state,
 15 and includes World War II artifacts

Carol Wilson

provided by wednesday

1) memo on what this definition applies to

2) Buzz words for artifact.

Act applies to those of State.
 Being on state land.
 Section on state private land out looking for new things for people.

What does this section apply to?

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

May 9, 1984

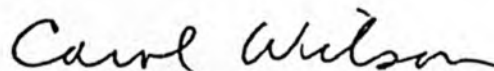
The Honorable John J. Liska
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Liska:

At your request, the Department of Natural Resources has developed the following definition of the word "artifact" for use in HB 678 and HJR 66:

"The term artifact includes but is not limited to vehicular, aircraft and parts thereof, watercraft, ordinance and munitions, and other historic resources as defined in 41.35.230."

Sincerely,



Carol Wilson
Special Assistant
to the Commissioner

cc: Senator Bill Ray
Senator Vic Fischer
Representative Ramona Barnes

SENATE STATE AFFAIRS COMMITTEE

Date received 2/2/9

Bill Number SB 687 Title fire prevention task force

*2/2/9
K...
x6*

Fiscal Position		Date requested	From	Amount	Date Rec'd	
Note	Paper				Note	Paper
	<u>100</u>					

CONTACTS

Backup list

--	--

HEARING INFORMATION

NOTES:

FINAL ACTION _____ DATE _____

Sen Vic Fischer



Alaska State Legislature

Senate Committee on State Affairs

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

Official Business

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senate State Affairs Committee Staff
RE: HB 687 Task force on fire prevention and control
DATE: May 8, 1984

HB 687 creates a task force on fire prevention and control within the office of the Governor. The task force would consist of 6 members representing a cross-section of persons knowledgeable in the field, and one member of the Governor's office.

The task force would have a complete life of 120 days.

The purpose of the task force would be (1) to provide information on the fire loss problem within the state, (2) define relationships between agencies within the state involved in fire protection, (3) recommend improvements to the state's fire protection system, (4) provide documentation to government for fire protection.

Members of the task force would serve without compensation, but would be entitled to per diem and travel expenses.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 687
 Title: Act providing for a task force on fire prevention
 Sponsor: House Finance
 Requestor: House Finance
 Date of Request: 2-21-84

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life & Property Protection
 BRU, Program or Subprogram(s) Affected: Fire Prevention

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Gordon Brunton Phone: 465-4331
 Division: Fire Prevention Date: 2-21-84

Approved by Commissioner: *J. W. Hughes* Date: 2/21/84
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Fiscal Note / Public Safety 2/21/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 687
Title: Task force on fire prevention and control

Sponsor: House Finance Committee
Requestor: House Finance Committee
Date of Request: 2/21/84

FISCAL DETAIL

Agency Affected: Office of the Governor
Program Category Affected: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	---	---				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHL						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: ~~Attach a separate page for analysis.~~ Funding necessary to implement HB 687 is provided in HB 688.

Prepared By: Al Adams, Chair *ADA* Phone: 465-3706
Division: House Finance Committee Date: 2/21/84

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Fiscal Note / House Finance 2/21/84

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

HB 687 / 688

Support

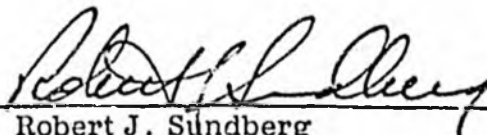
These bills will provide for completion of the work by Alaska's Task Force on Fire Prevention and Control, an effort begun in early 1981 and terminated in June, 1982.

This Administration and the fire service agree that the major recommendations identified by the original Task Force could be resolved in the time specified (120 days from the effective date) and with the \$20,000 allocation.

The reconstituted Task Force would:

- * Assist in master planning/policy development for fire and emergency services by State government.
- * Consolidate fire related regulatory functions that tend to be duplicative.
- * Provide clarification for State funding for fire/rescue services.
- * Determine what emphasis should be placed on arson prevention and control.
- * Determine the emphasis placed on fire service training.

If passed these bills will negate the need to consider SB 80 & 81.



Robert J. Sundberg
Commissioner

Position Paper / Public Safety 2/21/84

Sec. 19. Sections 13 and 16 — 19 of this Act take effect immediately in accordance with AS 01.10.070(c).

Approved July 1, 1980
Effective Date: Sections 1—12, 14, and 15, July 1, 1980; sections 13, and 16—19, July 2, 1980 with section 13 retroactive to July 1, 1979

Editor's note. — Section 17 of this act provides that sections 1 — 12 of the act take effect on the first day of the fiscal year for which \$33,400,000 or more is appropriated and allowed by the governor for distribution to municipalities and other recipients under the provisions of sections 1 — 12 of this act or on July 1,

1983, whichever is earlier. A total of \$33,500,000 was appropriated for the programs for the fiscal year beginning July 1, 1980. The appropriations were made in section 51, Chapter 120, SLA 1980, section 52, Chapter 120, SLA 1980, and section 6, Chapter 165, SLA 1980.

CHAPTER 157

AN ACT PROVIDING FOR A TASK FORCE ON FIRE PREVENTION AND CONTROL; AND PROVIDING FOR AN EFFECTIVE DATE.

(CSHB 863 am)

Be it enacted by the Legislature of the State of Alaska:

Section 1. TASK FORCE ON FIRE PREVENTION AND CONTROL. The Alaska Task Force on Fire Prevention and Control is established in the Department of Community and Regional Affairs.

Sec. 2. MEMBERSHIP. (a) The Alaska Task Force on Fire Prevention and Control consists of nine members appointed by the governor, without regard to political affiliation, to be selected as follows:

- (1) one member from the Alaska State Firefighters Association from a list of nominees provided by the association;
- (2) one member from the International Association of Firefighters from a list of nominees provided by the association;
- (3) one member from the Alaska Fire Chiefs Association from a list of nominees provided by the association;
- (4) one member representative of the insurance industry;
- (5) a contractor or architect licensed under AS 08.18;
- (6) a commissioner or executive officer of a regional native housing authority created under AS 18.55.996;
- (7) an educator from the state public school system;

- (8) one public
 - (9) one member
- a list of nominees
(b) There shall

Sec. 3. OBJEC
(1) identify and
the state, includi
(2) identify an
agencies in the st
the local, regiona
(3) recommend
improve the effec
(4) provide doc
and fire fighting
responsibilities.

Sec. 4. CHAI
Prevention and C
the task force.

Sec. 5. PROJ
and Control shal
investigator and
the direction of
chairman, empl

Sec. 6. MEET
Prevention and
The first meetin
appointment of t
meetings shall l
its urban and r

Sec. 7. COM
Prevention and
per diem and
commissions.

Sec. 8. DUTI
shall
(1) request
nature of fire l
(2) hold publ
public awarene
(3) study the
state;
(4) submit
improvement o

Immediately

1, 1980
Sections
15, July 1,
13, and
2, 1980
ion 13
o July 1,

r. A total of
ated for the
ear beginning
riations were
ter 120, SLA
20, SLA 1980,
SLA 1980.

ENTION AND

HB 863 am)

ION AND
nd Control is
nal Affairs.

ce on Fire
nted by the
selected as

ociation from

Firefighters

on from a list

try;

ative housing

- (8) one public member; and
- (9) one member representative of the Alaska Municipal League from a list of nominees provided by the league.
- (b) There shall be at least one member from each judicial district.

Sec. 3. OBJECTIVES. The objectives of the task force are to

- (1) identify and provide a detailed account of the fire loss problem in the state, including causal factors;
- (2) identify and define the present roles and relationships of the agencies in the state which are involved in fire protection activities at the local, regional, state and federal levels;
- (3) recommend organizational or operational modifications to improve the effectiveness of the state's fire protection system;
- (4) provide documentation that will assist all government agencies and fire fighting services in effectively meeting their fire protection responsibilities.

Sec. 4. CHAIRMAN. The members of the Task Force on Fire Prevention and Control shall elect a chairman from the membership of the task force.

Sec. 5. PROJECT DIRECTOR. The Task Force on Fire Prevention and Control shall hire an executive director to function as an impartial investigator and project director. The executive director shall be under the direction of the chairman and may, with the approval of the chairman, employ additional staff as necessary.

Sec. 6. MEETINGS AND HEARINGS. The Task Force on Fire Prevention and Control shall meet at least once every three months. The first meeting shall be held not later than 60 days following the appointment of the nine members to the task force. Public hearings and meetings shall be held in areas of the state that are representative of its urban and rural fire protection problems.

Sec. 7. COMPENSATION. The members of the Task Force on Fire Prevention and Control serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

Sec. 8. DUTIES. The Task Force on Fire Prevention and Control shall

- (1) request and review information concerning the causes and nature of fire losses in the state;
- (2) hold public hearings and meetings to determine the extent of public awareness of existing fire protection systems;
- (3) study the activities of the various fire protection agencies in the state;
- (4) submit an annual report with recommendations for the improvement of fire prevention and control in the state to the governor