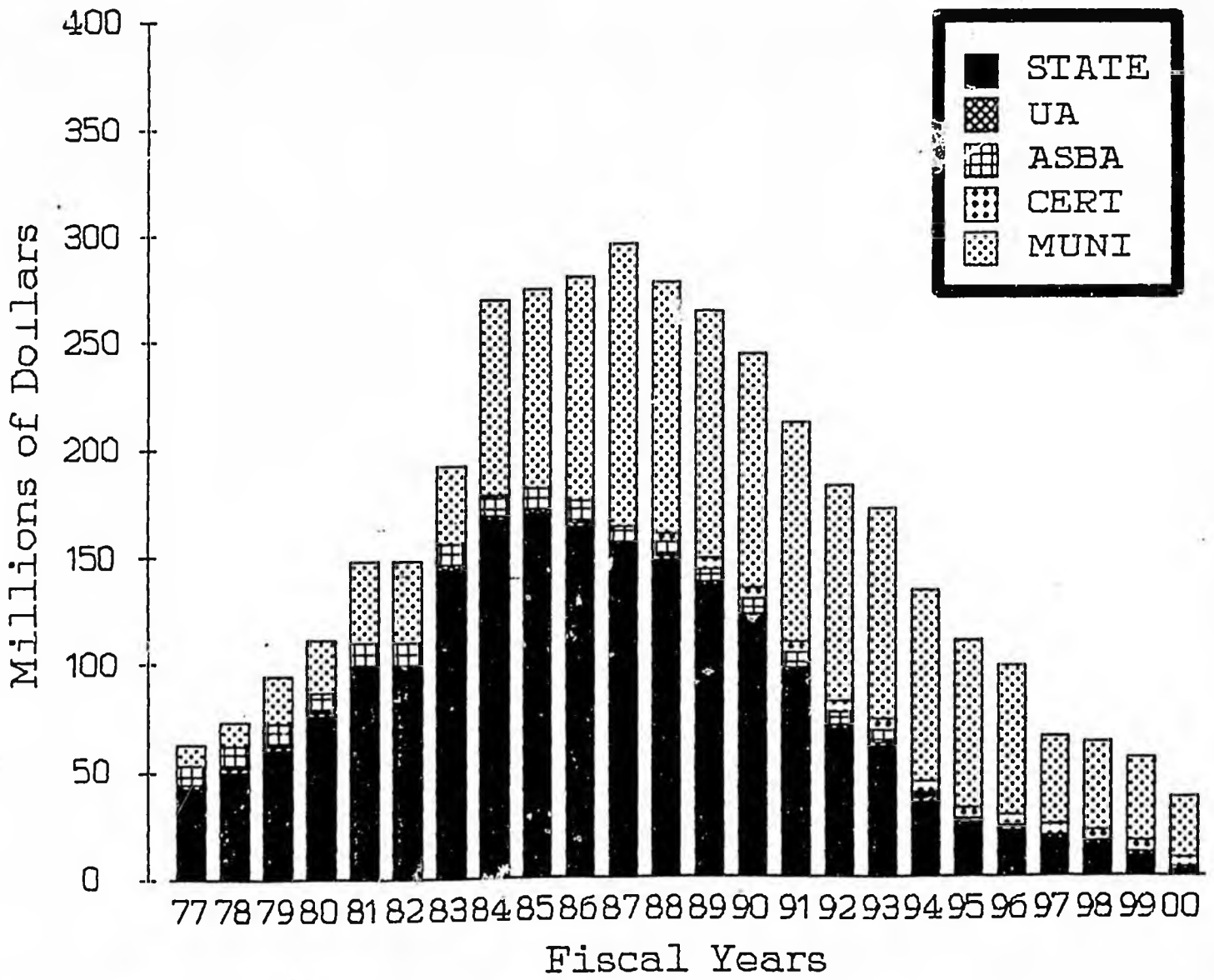


ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4782 HJUD SB 415 - SB 444

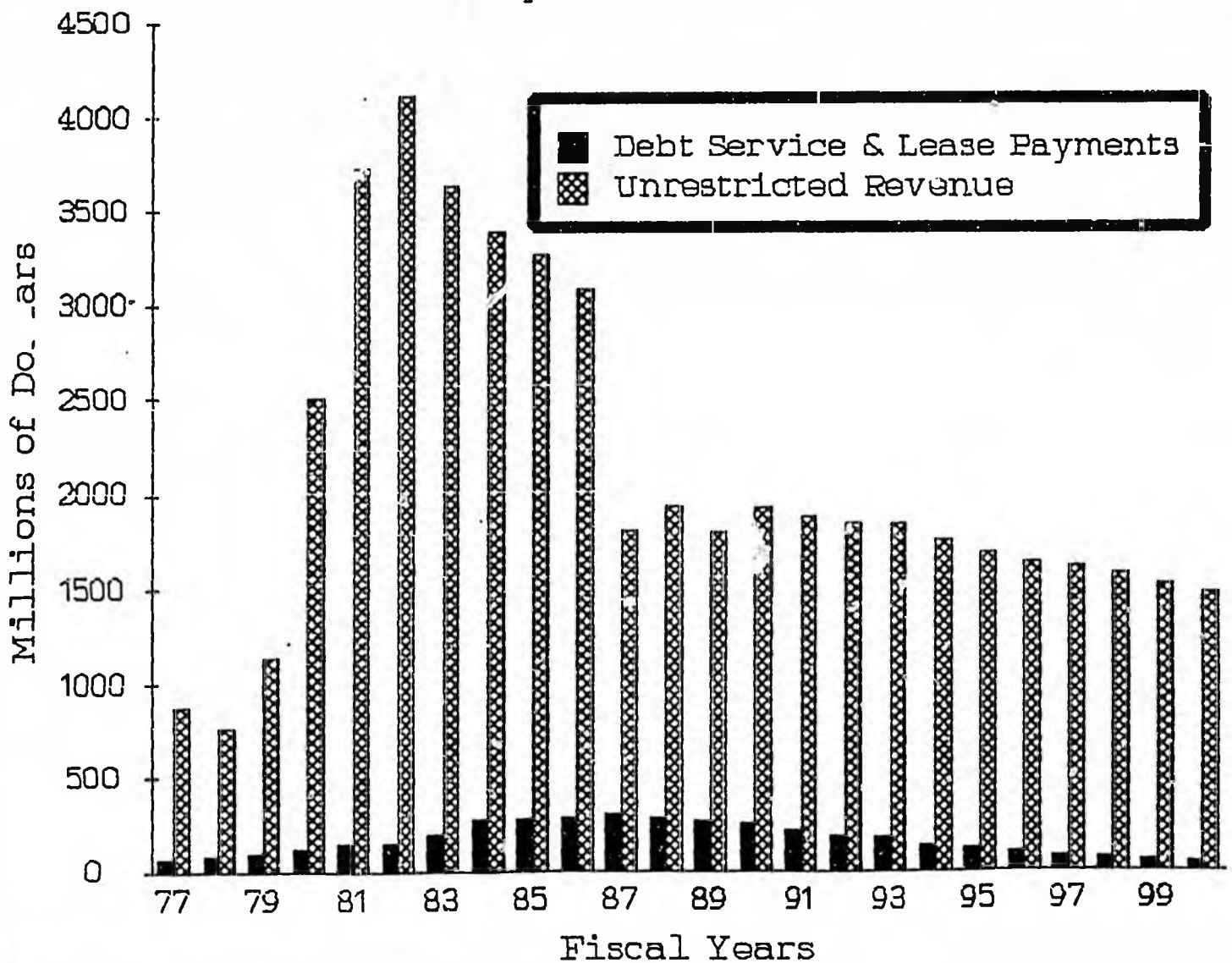
354

Total Debt Service & Lease Payments



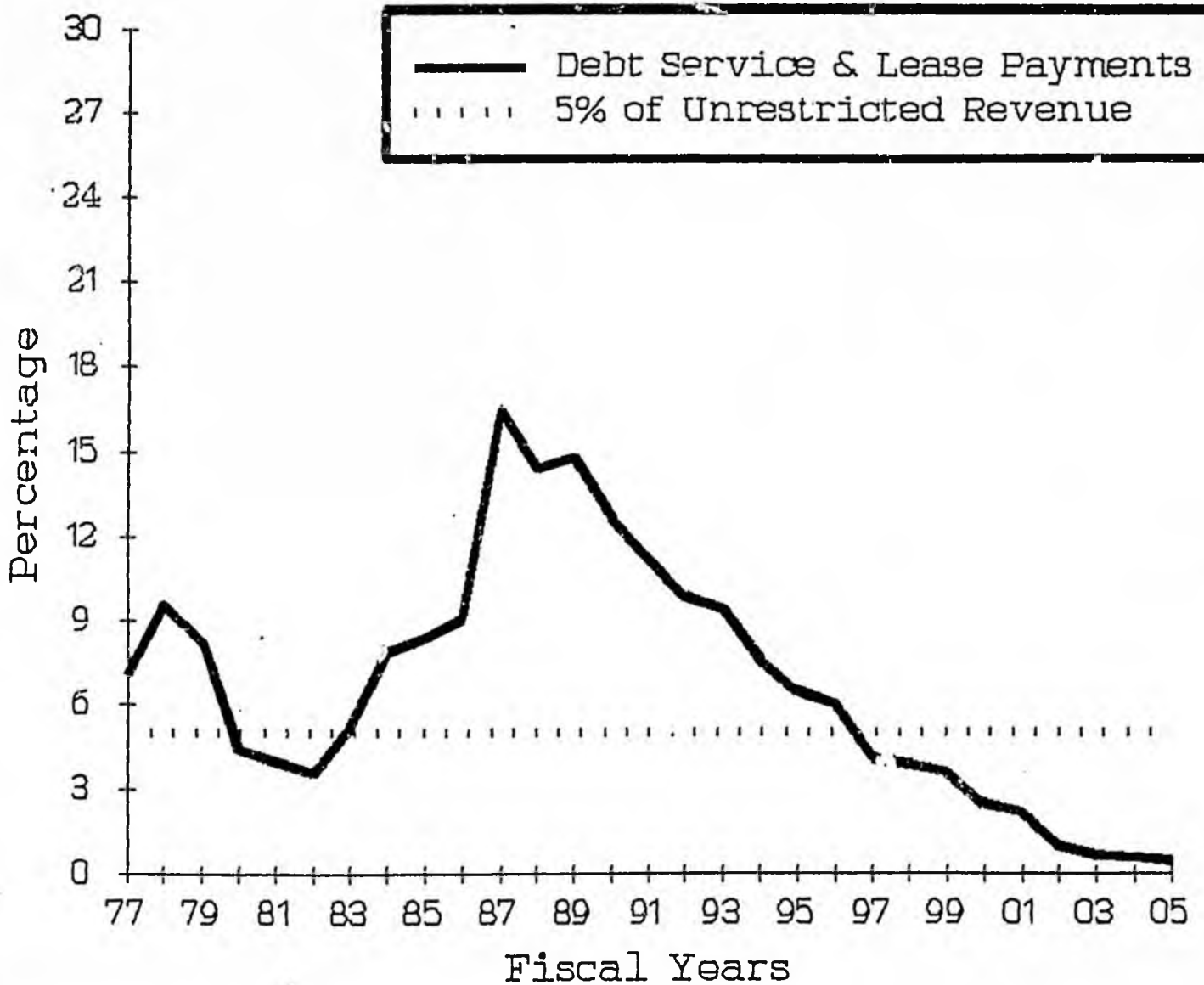
Debt Service vs. Unrestricted Revenue

September 1987



Debt Service as % of Revenue

September 1987



Alaska

Reviewed: rating affirmed

Rationale: Alaska's 'AA-' rating is affirmed on \$660 million of outstanding general obligation bonds. The rating reflects the state's continuing dependence on petroleum revenues, the slow process of stabilization and continuing volatility of the world oil market, and the state's conservative approach to petroleum revenue projections. Financial performance is commensurate with the rating, as evidenced by a good cash and fund balance position and substantial permanent fund earnings available for general fund appropriation. In the economy, there are signs of improvement in the secondary industries of timber, fishing, tourism, and minerals. Debt remains manageable, and is declining as the state continues to meet capital needs on a pay-as-you-go basis. Overall, the state's economy reflects growth in population, employment, and personal income and development in trade and services sectors.

Debt: The issuance of state debt historically has been high, due to the state's commitment to its capital improvement programs. Since the implementation of a debt management policy in 1983, the state has not issued bonds to meet infrastructure requirements, but rather has relied on pay-as-you-go financing. Depletion of oil-related revenues has sharply reduced appropriations to the capital budget. These appropriations fell to \$337.6 million in fiscal 1987 from a high \$1.2 billion in fiscal 1985, a decline of \$904 million or 72.8%. The fiscal 1988 budget projects another sharp drop in the capital appropriation to \$100.7 million, or a 70.2% fall. State G.O. debt declined from 67% of all Alaska public debt in 1972 to 31% in 1982, and 7% in 1986. Maximum annual debt service on all bonds is \$147.0 million, due in 1987. As currently structured, debt service requirements will decrease steadily through 1990 and accelerate through 2000.

Economy: Alaska's economic base remains primarily extractive, with major dependence upon oil and gas production, aided by the supportive industries of fishing, timber, tourism, and minerals. In 1986, approximately 86% of state revenues came from royalties and taxes paid on state-owned oil and gas leases. In

1987, this dependence declined to 77% and is projected to be 81% in 1988. Surveys indicate a declining production level for both the Cook Inlet fields and the Prudhoe Bay. Crude production at Prudhoe Bay is approximately 560 million barrels annually or 1.53 million barrels per day. Total statewide production is expected to peak at 1.85 million barrels per day and decline to about 775,000 barrels per day by fiscal 2000. This drop will be partially arrested by a miscible gas tertiary recovery project which will add approximately 115 million barrels to total Prudhoe reserves, and by production of 222,000 barrels per day from two new fields. These projects are expected to add one and a half to five years to the life of the Prudhoe Bay field. The Alaska Oil & Gas Conservation Commission has estimated the state's remaining recoverable reserves to be 6.6 billion barrels of oil and 30.9 trillion cubic feet of gas. The fishing and timber industries are still important contributors to Alaska's economy. Total revenues to fishermen from catch sold in Alaska for fiscal 1986 totaled \$885.6 million compared to \$700 million in fiscal 1985 and \$602.3 million in fiscal 1984. In 1986, the wholesale value of fish production was estimated at \$1.7 billion. While salmon catches have improved, the shellfish industry, a major revenue contributor, continues to be depressed with the decline of Alaskan king crab and shrimp stocks. Fish processing, which historically had been seasonal, is now a year-round enterprise, due largely to demand for certain products, like surimi, a fish paste used in the manufacture of imitation crab legs. The timber industry continues to be a significant contributor to the Alaskan economy; however, its share of export earnings has been declining since 1980. Exports of forest products have fallen at an average annual rate of 10% due to foreign competition and the strong U.S. dollar. In 1985, forest product exports from Alaska totaled \$213 million or 21% of all state exports. Given future depletion of oil reserves, some focus of attention has been shifted to minerals and mineral deposits. Shipments of coal to Korea from the Usibelli mine began in 1984, and totaled 640,000 tons in 1986. Eleven million tons will be shipped over the life of the

STANDARD & POOR'S CREDIT WEEK

contract. Development of a world-class molybdenum mine by U.S. Borax & Chemical Co. has been postponed due to price deterioration. Developmental activities are continuing with the Red Dog and Greens Creek zinc and lead mines. The Red Dog deposit is estimated at 29% of total U.S. deposits and is the world's second largest zinc mine. Tourism contributes significantly to the economy, but is not expected to exceed 1986 levels. In 1986, approximately 783,000 visitors spent over \$1 billion.

Following completion of the Trans Alaska Pipeline System in mid-1977, the population declined to 402,000 from 411,000. Meanwhile, state unemployment rose to 11.1% from 9.3% between 1977-1978. Due to recent weakness in oil and gas prices, 1986 annual unemployment rates have climbed to 10.9% from 9.5% in 1985. The population has grown 25% between 1980-1984. The current estimated population is 527,000. Government employment, historically high in Alaska, accounted for 29% of total income in 1980-1984. State per capita money income rose 9.8% between 1981-1983 to \$12,991, equaling 136.9% of the U.S. average.

Finances: Despite price fluctuations in the world oil market, the state has maintained a good financial posture. Petroleum revenues account for approximately 85% of general fund unrestricted revenues. Based on forecasted declines in petroleum revenues, fiscal 1986 ended with an unreserved fund balance deficit of \$196 million. To offset this deficit in fiscal 1987, \$427.3 million was transferred from the budget reserve fund into the general fund, making it possible for the general fund to end the year with a \$1.8 million deficit. Preliminary figures for fiscal

1988 indicate that as a direct result of a decline in projected petroleum revenues, a \$520 million unreserved fund balance deficit has been identified. It includes a \$250 million appropriation from the general fund to the budget reserve fund to assist in offsetting the deficit for fiscal 1988. Current information points to increased revenues in September which would eliminate the need for appropriating the funds, and at the same time minimizing or completely eliminating any deficit. Otherwise, the state could access \$799 million comprised of permanent fund earnings (\$569 million) and the Raibell Energy Fund (\$230 million) in available funds to correct the deficit. Permanent fund earnings and a proposed \$1 billion budget and reserve fund will be an integral part of the state's plan for softening the volatile petroleum generated revenues. Recognition of the weakened revenue posture is mirrored in the state's operating budget for fiscal 1988. The total operating budget of \$2.1 billion for fiscal 1988 is \$707 million (25.4%) less than fiscal 1986, and \$294.8 million (12.4%) less than fiscal 1987. The June 1987 revenue estimate for fiscals 1987-1989 shows flat growth. Petroleum revenues were an estimated 77% of general fund revenues in 1987, 81% in 1988, and 83% in 1989. These estimates indicate the continued dominance of petroleum revenues as the major contributor to the general fund. Total permanent fund assets for 1987 are \$8.8 billion. Approximately \$363 million of investment earnings from this fund in fiscal 1987 are available for dividend payments to each Alaskan resident. Anticipated payout is \$721 per person. The permanent fund earnings available for appropriation in fiscal 1988 will be approximately \$569 million.

Anthony H. Arthur
(212) 208-1777

State of Alaska

March 17, 1987

Comment

Moody's has been informed that both the senate and the house of representatives of the State of Alaska have passed, by a two-thirds vote, legislation which allows use of the Budget Reserve Fund by the General Fund. Signature by the governor is expected within the next few days, and the bill will be effective immediately. This measure should allow the state to finish its fiscal year without further cash shortages.

The legislature is considering various measures which would draw on reserves to erase the undesignated General Fund deficit. The governor intends to balance the budget for 1987-88, but no definitive action has been taken by the legislature to date.

analyst: **G. Cohen**

0000E01 ■

Moody's Investors Service, Inc. has used due care and caution in the preparation of this publication. The information herein has been obtained from sources believed to be accurate and reliable, but because of the possibility of human and mechanical error, its accuracy or completeness is not guaranteed. Moody's ratings are opinions, not recommendations to buy or sell, and their accuracy is not guaranteed. A rating should be weighed solely as one factor in an investment decision, and you should make your own study and evaluation of any issuer whose securities or debt obligations you consider buying or selling. Most issuers of corporate bonds, municipal bonds and notes, preferred stock, and commercial paper which are rated by Moody's Investors Service, Inc. have, prior to receiving the rating, agreed to pay a fee to Moody's for the appraisal and rating services. The fee ranges from \$1,000 to \$125,000.

Copyright © 1987 by Moody's Investors Service, Inc. Publishing and executive offices at 99 Church Street, New York, NY 10007

State of Alaska

February 27, 1987

Comment

State of Alaska

The State of Alaska is facing a potentially serious cash shortage by the end of March unless corrective action is taken in the interim. General Fund revenues have been sharply reduced following the 1986 break in oil pricing, with unrestricted revenues to the fund in 1985-86 about 11% below the level of the previous year. It has been estimated that the General Fund will need about \$315 million in cash over and above expected receipts for the remainder of the 1986-87 fiscal year. At the present time, state officials expect that additional cash will be needed in the period between March 26, when a payroll is due, and April 1, when a debt service payment is due.

While Alaska has a liquidity problem, it also has substantial funded reserves. The General Fund contains a budget reserve which holds \$431 million and a railbelt energy reserve which holds \$280 million. In addition, about \$171 million of Permanent Fund earnings are generally available to the General Fund. However, use of these funded reserves requires legislative authorization.

One of two courses of action is considered likely. The first is that the legislature will appropriate sufficient monies from the budget reserve. Such legislation has been passed by the house and is pending in the senate but its usefulness is doubtful as house passage was only by simple majority, delaying effectiveness for 90 days, which is subsequent to the expected pressure date. It is possible that the senate could pass the legislation by a two-thirds vote and return it to the house; approval by that margin allows immediate effectiveness.

The second course of action available is use of the executive power of impoundment. The governor has indicated that if necessary he will invoke that power. In August 1986, the governor used his impoundment power to reduce appropriations. Fairbanks North Star Borough and the borough school district in November 1986 filed suit seeking to enjoin the governor from exercising impoundment powers.

Moody's will continue to monitor this situation and further developments will be reported.

analyst: C. Cohen

00000. AK ■

Moody's Investors Service, Inc. has used due care and caution in the preparation of this publication. The information herein has been obtained from sources believed to be accurate and reliable, but because of the possibility of human and mechanical error, its accuracy or completeness is not guaranteed. Moody's ratings are opinions, not recommendations to buy or sell, and their accuracy is not guaranteed. A rating should be weighed solely as one factor in an investment decision, and you should make your own study and evaluation of any issuer whose securities or debt obligations you consider buying or selling. Most issuers of corporate bonds, municipal bonds and notes, preferred stock, and commercial paper which are rated by Moody's Investors Service, Inc. have, prior to receiving the rating, agreed to pay a fee to Moody's for the appraisal and rating services. The fee ranges from \$1,000 to \$125,000.

Copyright © 1987 by Moody's Investors Service, Inc. Publishing and executive offices at 99 Church Street, New York, NY 10007

CREDIT COMMENT

Alaska copes with volatile oil markets

Alaska continues to be subjected to revenue pressures created by the world oil market's volatility. January 1987 estimates projected a 62% decline in petroleum revenues in the fiscal year ending June 30, 1987, which would have led to a \$1.06 billion unreserved fund balance deficit. Only two months later, the situation changed for the better. March 1987 estimates reflect an improving revenue trend which—along with certain remedial actions taken by the state—will eliminate the deficit. Alaska will restrict capital, loan program, and general spending appropriations and will use budget reserves and revenues that exceeded the January estimate.

In light of the corrective actions and the financial cushion provided by earnings from Alaska's permanent fund, the 'AA-' rating is affirmed on the state's approximately \$656 million in outstanding general obligation debt. However, S&P will continue to monitor Alaska's financial performance, due to concerns over oil market volatility and its effect on the state's revenue performance. It is projected that 77% of fiscal 1987's general fund revenues will come from unrestricted petroleum revenues.

The January 1987 forecast revealed sharp declines in petroleum-related revenues for fiscals 1987-1989, with concurrent declines in the total general fund unrestricted revenues. Major declines were in the severance tax and royalties. When compared to fiscal 1986 actuals, severance tax revenues were estimated to decline 58% in fiscal 1987, 59% in fiscal 1988, and 55% in fiscal 1989. Also versus fiscal 1986's actuals, royalties were expected to decrease 68% in fiscal 1987, 54% in fiscal 1988, and 47% in fiscal 1989.

As the oil market firmed, March 1987's forecast portrayed a much better trend. Severance tax revenues are projected to increase 30% for fiscal 1987, 21% for fiscal 1988, and 21% for fiscal 1989. As for royalties, gains are expected to be 51% in fiscal 1987, 22% in fiscal 1988, and 18% in fiscal 1989.

Governor Steve Cowper plans to address fiscal 1987's revenue pressures and eliminate the potential deficit by restricting spending, tapping the budget reserve fund, and drawing on permanent fund earnings. The state's financial plan projects deficits for fiscals 1988-1991, and proposes draws on permanent fund earnings during those years to the extent needed after other revenue enhancement possibilities are applied. The draws on the permanent fund range from a high of \$368.6 million in fiscal 1987 to a low of \$15.5 million in fiscal 1991. S&P believes that the availability of the permanent fund's earnings will provide a cushion to soften adverse impacts from petroleum revenue declines. Total permanent fund balance is \$8.2 billion, while the unencumbered earnings reserve fund from which draws will be made is projected to be \$510 million.

Governor Cowper has submitted to the legislature a fiscal 1988 budget which takes into consideration reduction in petroleum-related revenue. The budget, which totals \$1.89 billion and includes a \$1.56 billion operating budget, reflects a reduction in state spending of approximately 26% over the level authorized in fiscal 1987 and 34% less than in fiscal 1986. To ensure a budget that would sustain state spending, the governor made four proposals: reimposition of the state income tax, increased fees and license costs, suspension of the economic limit factor affecting oil taxes (a state tax incentive designed to encourage the oil industry to produce marginal fields), and use of a portion of permanent fund earnings. The individual income tax is not likely to receive early approval.

Hyman C. Grossman (212) 208-1752

Vladimir Stadnyk (212) 208-1780

Anthony Arthur (212) 208-1777

Alaska adjusts to falling oil prices

In response to sharply declining world oil prices, Alaska recently reduced revenue projections and will adjust its expenditure levels accordingly. These timely actions are in keeping with the state's conservative approach to dealing with possible fluctuations in its main revenue source, oil and gas extraction taxes.

S&P affirms the 'AA-' rating on Alaska's \$752.7 million in outstanding general obligation debt. The rating is based on a continuing strong financial position, a manageable debt position, and an economy that continues to evidence population growth, employment gains, and maturation in the trade and services sectors. S&P believes that over the next several years, the availability of approximately \$2 billion of unrestricted funds will soften the impact on state revenues created by unfavorable fluctuations in world oil prices. The situation will be continuously monitored with a view to identifying the longer-term impact on state operations. (For analysis on Alaska, see Mar. 3 *Credit-Week*.)

In January 1986, Alaska forecast revenue levels at \$3,125 million in fiscal 1986, \$2,719 million in 1987, and \$2,258 million in 1988. To reflect lower oil prices and declining North Slope production, projections made in March reduce fiscal 1986's revenues by \$404 million, 1987's by \$641 million, and 1988's by \$643 million. Despite the cuts, Alaska still will achieve a surplus of \$280 million in fiscal 1986. Although current revenue projections are more conservative than those prepared in January, state forecasters acknowledge that the downside risk exceeds any perceived upside potential given the instability of the oil markets.

Included in the March numbers are favorable adjustments for the Trans Alaska Pipeline System (TAPS) tariff of approximately \$85 million, \$170 million, and \$83 million for fiscal 1986, 1987, and 1988, respectively. Fiscal 1986's revenue projections may be adjusted again, up to \$3,180 million from \$2,721 million, due to a \$243 million Arco Alaska Inc. settlement and \$216 million in refunds and legal expenses from the TAPS settlement.

Controlling expenditures

In addressing the new revenue projections, Governor Bill Sheffield proposed a plan designed to control expenditures. Internal controls on state spending for the remainder of fiscal 1986 will be tightened, including a hiring freeze, travel restrictions, and contract controls. State employee contracts will be reopened for negotiation and reexamined to save money and preserve jobs. To minimize the impact of budget reductions on local taxpayers and the economy, the governor has submitted a proposal to the legislature which would reduce some operating expenses, capital construction, pass-through funds to local governments and school districts, and loan programs. The governor has also proposed the immediate implementation of a budget reserve fund, in which the fiscal 1986 surplus can be deposited for use to offset the current decline in revenues. Efforts are being made to increase the public's awareness of the situation.

The impact of reduced revenues on spending is softened by available and unrestricted cash totaling approximately \$2 billion. Of that, \$515 million is composed of a settlement of the Arco tariff case, refunds for past TAPS throughput and legal fees, and a resolution of the outer continental shelf issue with the federal government. Other available funds are \$200 million in an unrestricted account for the Susitna power project, which will not proceed, and a rainy day fund of approximately \$298 million in fiscal 1986, \$284 million in 1987, and \$270 million in 1988. A last resort is the permanent fund, which now totals approximately \$7 billion, use of which would require a constitutional change. Projections for this fund are \$8.5 billion in fiscal 1990 and \$16.6 billion in 2000.

Anthony H. Arthur
(212) 208-1777

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

March 17, 1988

Hon. Rick Halford, Co-chairman
Senate Finance Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: Specific authority for ASBA to
finance Anchorage court facility

Dear Senator Halford:

During a meeting of the Senate Finance Committee on March 16, 1988, you requested our opinion concerning the necessity to obtain specific approval for Alaska State Building Authority (ASBA) involvement in the Anchorage court facility project. AS 18.55.100(d) requires ASBA to receive legislative review and approval before it may "proceed" with a lease-purchase financing under AS 18.55.100(a)(15). The author of this memorandum offered the opinion that the approval given to the supreme court in sec. 3, ch. 78, SLA 1984 was adequate to satisfy the review and approval requirements of AS 18.55.100(d).

We regret that there was not more time to reflect on the basis for the opinion before it was given orally to the committee. Upon careful review and consultation with others, we wish to express substantial reservations concerning the wisdom of proceeding without specific approval of ASBA as lessor of the court facility project. Foremost, our reservations are based on consideration of the reaction of bond counsel and underwriters to any departures from the review and approval process set out in AS 18.55. They may balk at giving an unqualified approval for a project unless a new approval specific to ASBA is granted. Our concern is also based on the fact that the earlier approval given for the project in ch. 78, SLA 1984 was enacted before the review and approval requirement set out in AS 18.55.100(d) was added to ASBA's enabling Act.

The willingness to accept the approval granted in 1984 was based in part on our long-held opinion that a legislative veto of specific projects violates the separation of powers doctrine. It is also significant that the requirement of legislative review and approval of ASBA projects is the more recent enactment. We have successfully maintained in a lawsuit involving the Alaska State Housing Authority (ASHA), ASBA's predecessor

Hon. Rick Halford, Co-chairman
Senate Finance Committee
: Specific authority for ASBA

March 17, 1
Page

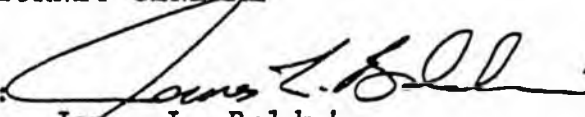
agency, that the legislature may not reserve approval power over specific projects proposed by ASHA. However, the legislature may by law enact specific standards for the exercise of the power of ASHA to lease public buildings. The decision in the case involving ASHA was not appealed to the supreme court. Based on the superior court's decision, we believe that a legislative approval required by statute is not a valid requirement and should not prevent ASBA from proceeding with the project. However, as mentioned earlier, potential investors usually are very cautious to explore the legal authority for this type of financing and will require adequate assurances that ASBA has the power to proceed and the blessings of the legislature.

In our opinion, it would be prudent to provide a new authorization for the Anchorage court facility by enacting the provisions of sec. 3 set out in SB 328. That bill is currently pending consideration in the State Affairs Committee. Rather than provide the committee with a letter of intent with the terms you requested, we suggest that the committee consider adding to the bill under consideration an effective date which states: "* Sec. __. This Act takes effect on the effective date of an Act authorizing the Alaska State Building Authority to proceed with the Anchorage court facility pursuant to AS 18.55.100(d)."

We regret the change in position and any inconvenience it may have caused the committee. However, this inconvenience is necessary to assure that the financing will not be bogged down by the uncertainty of potential investors in any bonds issued by the financing authority.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
James L. Baldwin
Assistant Attorney General

JLB/pjg

April 21, 1988



Hand Delivered

The Honorable Steve Cowper
Governor
State of Alaska
P.O. Box A
Juneau, Alaska 99811

Dear Governor Cowper:

Please be advised that the Alaska State Building Authority, by statute, may not finance the construction of the proposed court facility in Anchorage without specific legislative authorization naming the Authority as the financial vehicle. Such authority has been sought in SB 328 and SB 341.

Furthermore, municipal attempts to finance the construction of this facility may be unsuccessful due to the Authority's current statutes preventing transfer of property held by the Authority at less than fair market value. The Alaska State Building Authority currently holds title to a portion of the property on which the existing court facility resides. Amendments to allow transfer to the state or a political subdivision are also included in SB 328 and SB 341.

In conversation with Assistant Attorney General Baldwin, prior authorization to the court system to proceed with this project does not satisfy the statutory requirements in AS 18.55.100(15)(d).

Sincerely,

ALASKA STATE BUILDING AUTHORITY

Barbara Morse-Quinn
Executive Director

STATE OF ALASKA

DEPARTMENT OF REVENUE

TREASURY DIVISION

STEVE COWPER, GOVERNOR

ELEVENTH FLOOR
STATE OFFICE BUILDING
P.O. BOX 58
JUNEAU, ALASKA 99811-0400

April 22, 1988

The Honorable John Binkley
Co-Chairman
Senate Finance Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Binkley:

You have asked what effect there may be on lease-financing costs for an Anchorage Court Facility arising from the ownership of a portion of the project site by the Alaska State Building Authority ("ASBA").

My impression is that if ASBA serves as lessor and issuer of the financing any problems and potential costs would be minimized by virtue of the consolidation of title under ASBA as lessor.

If ASBA does not serve as lessor, either the ASBA property would need to be sold, at appraised value under current law (AS 18.55.255), or leased to the lessor, or otherwise incorporated in the financing without trampling ASBA's interests in the property. Whether this can be done without compensation to ASBA is unclear to me. In any event, it would appear to add to the complexity of bond counsel's job.

The added complexity of bringing in a third party to the financing (besides ASBA and the Court System) to serve as lessor would result in some additional bond counsel costs. Such costs are typically in the neighborhood of \$50,000 to \$75,000 for a lease-financing.

In addition, the complexity might result in the financing being more of a "story bond," requiring greater selling effort. In this case, one could expect to pay marginally greater interest rates.

Conceivably, the complexity might be such as to make it technically impossible to issue debt for the project. Whether this is so, I am unable to advise you.

The Honorable John Binkley
Page 2
April 22, 1988

For a better understanding of the possible problems arising from ASBA's ownership, I would urge you to contact ASBA's bond counsel.

Yours truly,

A handwritten signature in cursive script that reads "Milton B. Barker".

Milton B. Barker
Deputy Commissioner

MBB/gb
88-109

BUILDING THE PROPOSED COURTHOUSE AMONG ALL ADULTS
BY
POLITICAL AND GENERAL DEMOGRAPHICS, BEHAVIORS AND PERCEPTIONS

ROW PERCENTS
MARCH 11TH THROUGH MARCH 13TH, 1988
SAMPLE SIZE 701; MARGIN OF ERROR = + OR - 4.89%

| | PROPOSED ANCHORAGE COURTHOUSE | | | TOTAL COLUMN PERCENT |
|----------------------------------|----------------------------------|---------|----------------|----------------------------|
| | Favor | Opposed | Unde- cided | |
| HOUSE DISTRICT: | | | | |
| 17..... | 22.5% | 61.1% | 16.4% | 4.5% |
| 18..... | 25.5% | 63.7% | 10.8% | 13.7% |
| 19..... | 19.1% | 74.9% | 6.0% | 11.7% |
| 110..... | 21.5% | 62.8% | 15.7% | 17.5% |
| 111..... | 25.0% | 70.0% | 5.0% | 11.4% |
| 112..... | 25.9% | 72.9% | 3.2% | 7.8% |
| 113..... | 16.1% | 67.8% | 16.1% | 9.2% |
| 114..... | 14.8% | 79.8% | 5.4% | 10.2% |
| 115..... | 24.9% | 60.2% | 14.9% | 13.9% |
| ANCHORAGE STATE SENATE DISTRICTS | | | | |
| Senate Dist F..... | 25.2% | 62.9% | 13.9% | 35.7% |
| Senate Dist G..... | 22.0% | 72.5% | 5.5% | 23.2% |
| Senate Dist H..... | 19.7% | 70.2% | 10.2% | 17.0% |
| Senate Dist I..... | 20.7% | 69.5% | 10.9% | 24.2% |
| TOTAL ROW PERCENT..... | 21.7% | 67.7% | 10.6% | 100.0% |

HELLENTHAL & ASSOCIATES, INC.

PUTTING THE COURTHOUSE BONDS ON THE BALLOT AMONG ALL ADULTS
BY
POLITICAL AND GENERAL DEMOGRAPHICS, BEHAVIORS AND PERCEPTIONS

ROW PERCENTS
MARCH 11TH THROUGH MARCH 13TH, 1988
SAMPLE SIZE 401; MARGIN OF ERROR + OR - 4.89%

| | PUTTING BONDS ON THE NOVEMBER 1988 BALLOT | | | TOTAL |
|---|--|--------------|----------------|-------------------|
| | Favor | Opposed | Unde- cided | COLUMN PERCENT |
| HOUSE DISTRICT: | | | | |
| 17..... | 83.0% | 11.2% | 5.7% | 4.5% |
| 18..... | 76.3% | 21.9% | 1.8% | 13.7% |
| 19..... | 84.7% | 13.2% | 2.1% | 11.7% |
| 110..... | 80.2% | 15.6% | 4.2% | 17.5% |
| 111..... | 89.3% | 6.8% | 4.0% | 11.4% |
| 112..... | 76.1% | 11.6% | 12.2% | 7.8% |
| 113..... | 76.9% | 23.1% | | 9.2% |
| 114..... | 91.5% | 6.8% | 2.4% | 10.2% |
| 115..... | 94.1% | 4.6% | 1.3% | 13.9% |
| ANCHORAGE STATE SENATE DISTRICTS | | | | |
| Senate Dist F..... | 79.1% | 17.5% | 3.5% | 35.7% |
| Senate Dist G..... | 87.0% | 10.0% | 3.0% | 23.2% |
| Senate Dist H..... | 76.5% | 17.9% | 5.6% | 17.0% |
| Senate Dist I..... | 93.0% | 5.2% | 1.8% | 24.2% |
| TOTAL ROW PERCENT..... | 83.8% | 12.8% | 3.3% | 100.0% |

HELLENTHAL & ASSOCIATES, INC.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

ANCHORAGE COURTHOUSE EXPANSION PROJECT - NEEDS AND SIZING

MARCH 16, 1988

**Office of the Administrative Director
Alaska Court System
303 K Street
Anchorage, Alaska 99501
(907) 264-0547**

ANCHORAGE COURTHOUSE EXPANSION PROJECT - NEEDS AND SIZING

I. INTRODUCTION

In FY 1982, the Alaska State Legislature appropriated funds to the Alaska Court System for land acquisition, planning and design of new court facilities in Anchorage. The expanded facilities would extend the existing court facilities in Anchorage across I street and onto the block east of the existing facilities. The new facility was planned to provide an additional 350,000 square feet of space, in order to meet the court's projected needs to the year 2005.

A brief project history is included in the "Project Overview" included as Appendix A.

Under the current project time line, construction would begin in September 1988. However, maintenance of the time line is predicated on the issuance of request for construction bids in May and June. Any variance from the time line will prevent the commencement of the construction phase for at least one season.

This document discusses the space needs of the Anchorage court and presents information relevant to the size of the building.

II. CURRENT SPACE DEFICIT

A. The Anchorage court is not currently in a position where it comfortably fills the existing courthouse facility, or even where it is now pushing against the limits of the facility. Rather, the Anchorage court has so outgrown its existing space that some court offices have been forced out of the courthouse and into adjacent commercial rental space, and inefficiencies have been created by the forced splitting and relocations of departmental units. The result is a cramped facility which does not adequately serve the public's needs.

As part of a project to examine Anchorage court space needs which was undertaken by the supreme court in February 1988 (discussed more fully in section II, infra), the court examined the Anchorage court's needs as they exist at the present, as well as what they may be in future years. Looking at the known deficiencies in the current facility and applying established space standards to the existing staffing structure, it was concluded that the Anchorage court is currently operating in a facility which is 115,000 square feet smaller than it should be to accommodate present needs. Some of the problems associated with the current facility and this existing deficit are discussed below.

1. Jury Assembly

The current jury assembly area in the Anchorage courthouse is located in a windowless area of the courthouse basement. The court has received numerous complaints from jurors, and there have been several letters to the editors of local newspapers, noting that the jury area is crowded, depressing and makes potential jurors feel more like prisoners than citizens who are appreciated for performing their civic duties. Citizens are generally subject to personal hardship when they are called for jury service, and they are given only a nominal payment for their services. Current conditions are unpleasant and unacceptable and only add to the level of discomfort a juror may already have encountered by virtue of being called to serve.

Based on current standards for jury management, an additional 5,440 square feet of space would be needed to provide well planned, sufficient space for jury assembly for today's needs.

The jury assembly area in the expanded facility will allow for a more humane treatment of citizens called for jury duty. The new assembly area is appropriately sized to the number of jurors who can be expected to be called on most days. The jury area will contain some quiet working areas for those jurors who are called for jury service but who wish to read or work while waiting to be called to a courtroom. The area has been carefully designed to abut on the court's training and conference area to allow for temporary expansion of the jury area on days when an unusually high number of jurors must be called. The dual use of the training area allows the court to avoid the creation of an oversized jury area to accommodate for the unusual day, but which would be overly-expansive for the average day.

2. Judicial Services/Security Corridors and Access/Prisoner Circulation

During the past several years, there have been several escapes of prisoners from the Anchorage courthouse. These escapes have ranged from an incident of a juvenile accomplishing an escape by crawling up into the air circulation system after removing a ceiling panel, to a recent incident involving a prisoner removing his handcuffs and bolting while being escorted through a public area of the court. There can be no doubt that such escape possibilities create a significant danger to court personnel and the public. There can also be no doubt that escape attempts, when even temporarily successful, are extremely costly: a recent escape precipitated an area-wide mobilization of APD officers and the cordoning off of an entire neighborhood.

The current court facility in Anchorage is not designed in a manner which permits adequate isolation of prisoners from members of the public and court staff. Prisoners must be transported across open parking lots and through public and

private court areas to be taken to courtrooms for their court hearings.

The new court building has been carefully designed, through the use of private and prisoner circulation corridors, to eliminate contacts between prisoners and members of the public and court staff, and to minimize opportunities for escape. From the time that prisoners are delivered, via a closed sallyport, to the court complex, they are isolated and transported in secured areas. The new complex devotes approximately 28,815 square feet to judicial services, including holding cells and prisoner circulation. The design was developed with the cooperation and help of representatives from the Alaska State Troopers and the Anchorage Police Department, to insure that law enforcement needs were met.

The need for secured prisoner circulation in court buildings and the need for court building design that maximizes prisoner security has been documented in a myriad of sources. See, for example: Space Management and the Courts Design Handbook by F. Michael Wong, U.S. Department of Justice, LEAA, 1972 (Ch 5: Courthouse Security); Court Security - A Manual of Guidelines and Procedures, National Sheriffs' Association 1978 (Ch 7: Security Implications in Architecture, and Appendix A, Court Security Issues, Building Structure); "Courthouse Security", paper by Sue Johnson and Prakash Yerawadekar for New York Office of Court Administration, 1980; Standards Relating to Trial Courts, American Bar Association Commission on Standards of Judicial Administration, 1976.

3. Clerks' Office

The operation of the clerks' office has been profoundly affected by the existing space deficit, which amounts to 680 square feet. Components of the clerk's office are scattered around the facility, wherever space could be found to house them, with the result that operations which should logically be adjacent to one another are separated, and functions are fragmented. Some examples of the effects are:

- a. The records department has two public counters for accessing records, located on separate floors, and members of the public often try to access the wrong counter first, or must go to both counters, to get the files or information they need.
- b. Records are stored in a number of locations, since there is no room for a centralized storage area. Retrieval of files and other records is thus very difficult and inefficient.
- c. Inadequate facilities exist for safeguarding of exhibits. Only one small vault is available, which is used to store criminal exhibits. Other exhibits are stored in rooms around the court facility.
- d. The small claims department is located on a mezzanine level which can only be accessed by a staircase. Therefore,

handicapped individuals cannot access this department like other citizens, and court staff must leave the department and walk downstairs to help handicapped persons on small claims matters.

4. Law Library

The Anchorage Law Library is the administrative headquarters for the court system library system and houses the state's only major legal research collection. Besides serving the judiciary and legal practitioners, the library is an important resource for state and federal agency personnel, businesses, students, pro se litigants and the general public. While other states generally have several libraries with substantial legal collections, Alaska has no law school and no legal collection of any substance in any of its libraries other than the court system libraries.

Due to current space constraints, the Anchorage Law Library must keep a large portion of its collection in a storage area with very limited accessibility. With an estimated deficit of 6,800 square feet, the law library has no space for future expansion.

The new courthouse would provide the law library with the space necessary to improve access to current collections, to provide for the continuing growth of certain collections, and to acquire additional materials as needed. The expansion of the law library would also allow for the retention of materials in the more usable hardcopy format and would reduce the amounts of money spent on the costly conversion of collections to microfiche.

5. Courtrooms

The most obvious central focus of a courthouse is its courtrooms. Although much occurs beyond the courtroom walls, it is the courtroom which is the main arena for court proceedings, and it is the courtroom which is the most obvious symbol of the justice system in the eyes of the public.

Courtrooms are very specialized areas which require a number of technical modifications. Courtrooms must be acoustically sound to insure that an adequate record of all proceedings is obtained. Courtrooms must be designed to accommodate the many participants in court proceedings, which can include twelve or more jurors, the judge, the in-court clerk, law enforcement representatives, attorneys, litigants, witnesses and members of the public and press. Courtrooms must be carefully designed to reinforce respect for the dignity and impartiality of the courts. Standards adopted by the American Bar Association indicate that courtroom design should create "...an atmosphere of sobriety, tranquility and security." 1/

1/ Standards Relating to Trial Courts, American Bar Association Commission on Standards of Judicial Administration, 1976.

Because an insufficient number of courtrooms exist in the current Anchorage facility to accommodate all court proceedings which must be scheduled (the current trial court courtroom deficit amounts to 9,400 square feet), court proceedings are now being held in rooms which have been remodeled into temporary courtrooms and hearing rooms. These rooms do not provide for adequate access and egress by the judge, prisoners and members of the public, and their use creates significant security problems. For example, domestic violence matters are routinely heard in a small hearing room which allows for little separation between the parties, and between the parties and the judge. These types of proceedings are well-recognized as having the potential for violent interactions, and yet the restricted room available limits the ability of the court to protect itself and the litigants in these situations.

In the expanded facility, adequate numbers of appropriate courtrooms will be available. These courtrooms will be sized and modeled following established space standards, which will promote the goals of the justice system and incorporate reasonable security safeguards.

6. Administrative Offices

Since 1980, the administrative offices for the court system have been located outside of the court building in Anchorage. These offices currently occupy 12,240 square feet of rental space away from the court building. The administrative offices were removed when space constraints within the court building became so severe that administrative office space had to be reallocated to other judicial functions.

The separation of the administrative offices from the court building has resulted in a number of inefficiencies. Departments now located away from the court building include the personnel department, the departments responsible for recording equipment and computer equipment support, the department responsible for building maintenance, the accounting department and the purchasing department.

Because of the close functional relationship between the administrative offices and the Anchorage court, there is a constant flow of personnel and equipment between the two buildings. Many employees make several trips between the two facilities on any given day. The physical separation has resulted in the expenditure of personnel time and in confusion for court employees and the public. For example, electronics engineering staff must respond immediately to calls from courtrooms about defective recording equipment, which necessitates many trips between the facilities. Immediate attention to these problems is mandated because without properly functioning equipment, court proceedings must be delayed and there is a danger that an adequate court record cannot be produced. These employees are often required to transport delicate pieces of electronic equipment during these trips.

The expanded facility will provide for a reconsolidation of the administrative offices with the Anchorage court. This reconsolidation will restore the close working relationship between the now-separated court components and will eliminate commuting problems.

- B. The suggestion that the court expand into currently existing, unoccupied commercial space fails to take into consideration the many and varied special requirements of court facilities. Commercial buildings do not have space appropriate for courtrooms. Courtrooms must meet special acoustical and soundproofing specifications to allow for proper recording of court proceedings. Courtrooms have special requirements for egress and ingress to maximize the separation of judge, jury and defendant. Juror access to courtrooms located outside the court building would entail marching jurors in mass from the court building to the designated courtroom on a regular basis.

Transporting prisoners to court facilities that might be located in commercial buildings would be unnecessarily dangerous. In most commercial buildings, police would have to use public lobbies and elevators. Commercial buildings are not equipped with secure holding cells or sufficiently separate circulation patterns. Risk to the general public would be unacceptable.

Even if an expansion into available commercial space were limited to non-courtroom functions, it would be unacceptable. Functions of the court are tied together and tied to the courtroom. Moving departments or parts of departments out of the court building would fragment functions and gravely decrease efficient operation.

Movement of files from the court building to court offices several blocks away would seriously compromise the integrity of the court system's files and could result in loss or damage to critical court documents. The already difficult job of filing documents and locating files would become monumental.

Finally, the fragmentation of court services would be a source of confusion and frustration to the public.

III. SIZING AND NEEDS

A. Determination of Space Needs

In order to develop a plan for the expansion of the Anchorage court facility, the Alaska Court System hired an internationally recognized judicial space planning firm to prepare a program document, using space standards and design guidelines specifically developed for the Alaska Court System in a report published in 1976 entitled "Judicial Facility Standards and Design Guidelines." These standards were developed to provide guidelines to be used both in renovation of existing court facilities and construction of new court buildings. The information in the report was derived from the following sources:

1. Reference books and journals in the field of judicial space management, including "The American Courthouse" and "Space Management and the Courts - Design Handbook."
2. Interviews with persons functioning at various levels in courts, court-related departments and law enforcement agencies to verify functions, work relationships within departments and interrelationships with other agencies and departments, and spatial and environmental requirements.

The planning consultants retained have been heavily involved in the planning and designing of court facilities nationwide, on both the state and federal levels. The standards developed for the Alaska Court System correspond to space management concepts used across the country. These general space standards were applied to the information gathered about the Anchorage project, and a program document was produced detailing both existing space and projected space needs. This program document was the starting point for the architect's design work.

B. Reaffirmation of Sizing/Concerns Created by Changes in Alaska's Economic Conditions

The initial determination of needs and sizing for the courthouse expansion was accomplished in 1982. Since 1982, the State of Alaska has experienced significant changes due to a severe depression of economic conditions. In light of these changes, the supreme court reassessed the need for the courthouse expansion project in February 1988. (Detailed information concerning that reassessment process is contained within the "Project Overview" document attached as Appendix A. This "Project Overview" was provided to the Senate Finance Committee on February 22.)

One of the factors the supreme court considered was the current space deficit in the Anchorage courthouse. The existing space deficit was discussed earlier in this report. The Anchorage courthouse facility currently is experiencing a space deficit of 115,000 square feet. This figure represents space needed to accommodate existing needs. The lack of this space within the court complex has resulted in inefficiencies and problems for the public, as discussed earlier, as well as serious security problems for court staff and the public due to inadequate prisoner controls.

The court also examined economic and population data obtained from the Institute of Economic and Social Research's Alaska Economy and Housing Market Report dated October 1987. This data was used to formulate predictions about the court's future caseload, and the probable rate of growth which will be experienced by the court through the year 2003. (The process that the court followed in this regard is outlined in the aforementioned "Project Overview.") Based on the information available, and the reasonable predictions which could be made based upon that information, the court concluded that the new facility was still needed to meet the court's projected needs.

Although the court's growth has lessened during the last two years, the court's workload, as reflected by court filings, has shown a significant increase since FY 1981, when this project was first envisioned. The following chart summarizes the growth in trial court filings from FY 1981 until FY 1987.

ANCHORAGE COURT COMPLEX

TRIAL COURT ACTIVITY
Fiscal Years '81 - '87

| Court Level | FY 1981 | FY 1987 | Percent Change FY81-FY87 |
|--|---------------|---------------|-----------------------------|
| SUPERIOR COURT | | | |
| Felony | 413 | 957 | 131.7 |
| Domestic Relations | 3,737 | 4,608 | 23.3 |
| Probate | 777 | 1,280 | 64.7 |
| General Civil | 2,156 | 2,898 | 34.4 |
| Children's Matters | 445 | 679 | 52.6 |
| Superior Court Filings: | <u>7,528</u> | <u>10,422</u> | <u>38.4</u> |
| DISTRICT COURT | | | |
| Misdemeanor | 7,289 | 8,995 | 23.4 |
| General Civil | 2,929 | 6,734 | 129.9 |
| Small Claims | 4,393 | 7,333 | 66.9 |
| District Court Filings: | <u>14,611</u> | <u>23,062</u> | <u>57.8</u> |
| ===== | ===== | ===== | ===== |
| TOTAL TRIAL COURT NON-TRAFFIC FILINGS | 22,139 | 33,484 | 51.2 |

Source: Alaska Court System - FY 1981 & FY 1987 Annual Reports

ALASKA COURT SYSTEM

Analysis of Space in Anchorage Court Facility
(in square feet)

| | | |
|--|---------|---------|
| Total Space Available | | 557,755 |
| Comprised of: | | |
| Existing Boney Court Building | 149,670 | |
| Existing District Court Building | 58,085 | |
| | ----- | |
| Total Space in Existing Buildings | 207,755 | |
| Proposed Addition | 350,000 | |
| | ----- | |
| Total Space Available | 557,755 | |
| | ===== | |
| Less Non-Court Space Assignments: | | |
| Parking | 51,670 | |
| Commercial | 7,500 | |
| District Attorney/Office of Special Prosecutions | 24,550 | |
| Municipality of Anchorage Warrants Section | 4,635 | |
| Department of Transportation/Public Facilities Maintenance Section | 3,735 | |
| State Troopers Judicial Services Section (including sallyport, holding cells, & prisoner circulation) | 25,815 | 117,905 |
| | ----- | ----- |
| Space Available for Court System Use | | 439,850 |
| Estimated Court System Space Needs in 1991 (including the current 115,000 square foot space deficit and 11,600 square feet of courtrooms, not fully utilized until 2006) | 1491 | 328,797 |
| | | ----- |
| Space Available for Additional Court System Growth and for Use by Other Justice-Related Agencies | | 111,053 |
| Space Loss from Demolition of District Court Building | | 58,085 |
| | | ----- |
| Net Space Available for Additional Court System Growth and for Use by Other Justice-Related Agencies | | 52,968 |
| | | ===== |

ALASKA COURT SYSTEM
ANCHORAGE COURTHOUSE EXPANSION PROJECT

Project Budget

| | |
|---|---------------------|
| Construction Cost | \$67,570,000 |
| Construction Contingency | 6,652,000 |
| Furnishings and Equipment | 6,000,000 |
| Construction Administration Costs, including permits, construction management fees, etc. | 4,000,000 |
| Art-in-Public-Places | 665,000 |
| | <hr/> |
| Total Project Budget | <u>\$84,887,000</u> |

Repayment of Public Facilities Planning Fund Loan \$ 750,000

Project Financing Options

30-year Lease-Revenue Bonds:

| | |
|---|---------------|
| Estimated Total Debt Service | \$229,600,000 |
| Estimated Annual Debt Service (1991-2018)* | 8,503,700 |
| Estimated Annual Operations & Maintenance Costs (1991-2041 estimated life of building) | 1,260,000 |

Estimated Average Monthly Cost per Square Foot
over Full 50-year Life of Building \$1.21

20-year Lease-Revenue Bonds:

| | |
|---|---------------|
| Estimated Total Debt Service | \$178,051,800 |
| Estimated Annual Debt Service (1991-2008)* | 10,473,600 |
| Estimated Annual Operations & Maintenance Costs (1991-2041 estimated life of building) | 1,260,000 |

Estimated Average Monthly Cost per Square Foot
over Full 50-year Life of Building \$1.03

10-year Lease-Revenue Bonds:

| | |
|---|---------------|
| Estimated Total Debt Service | \$122,363,700 |
| Estimated Annual Debt Service (1991-1998)* | 17,480,500 |
| Estimated Annual Operations & Maintenance Costs (1991-2041 estimated life of building) | 1,260,000 |

Estimated Average Monthly Cost per Square Foot
over Full 50-year Life of Building \$0.82

*Debt service is not paid during three year construction period.



FRENCH VOTE: Mitterand withstands his prime minister's challenge, Back Page

UNBEATEN
Dave ...
Sports, Page 2

FOR ANIMALS' SAKE
Two women who care
for them are at odds
Lifestyles, Page D-1



Anchorage Daily News

VOL. XLII, NO. 130 52 PAGES

ANCHORAGE, ALASKA, MONDAY, MAY 9, 1988

PRICE 25 CENTS

Six years and \$9 million later, still no courthouse addition

By **RICHARD MAUER**
Daily News reporter

On March 1, 1982, the state court system put out a call to architects. The announcement was straightforward: Submit a proposal for addition to the Anchorage courthouse that would meet judicial needs through the year 2010.

The construction cost was estimated at \$32 million, the size 190,000 square feet; and the date of completion sometime in 1985.

More than six years and \$9 million later, the court system is still far away from turning the first shovel of earth. Meanwhile, the project has grown to nearly twice the original size and more than double the first estimated cost.

Now the money has run out, stop-work orders have been issued to its consultants, and Court Administrator Art Snowden has found himself in the middle of a legislative battle over another \$1.5 million in architect fees he needs to prepare the project for bid.

Late Sunday, lawmakers from both houses were working to fashion a compromise in which up to \$4 million would be appropriated to redesign the project down to 250,000 square feet, a reduction of 100,000 square feet.

Along the way, the court system has ignored advice from its first earthquake-hazard consultants to drop the project and it retained a planner, Michael Wong, whose spiraling fee schedule required the courts to pay him for

years for the work he completed on June 29, 1982. The court's records on the addition are in disarray, and the legislative auditor is investigating the project and its consultants at the request of Sen. Johnne Binkley of Bethel.

Within the past month, as the controversy over the courthouse has deepened, the court system fired Wong, while its architect, McCool, McDonald of Alaska, has undergone a change of ownership. Allen McDonald, a central figure in the federal investigation into the payment of kickbacks and bribes in North Slope Borough construction projects, sold his 90 percent stake in the firm three weeks ago, according to the new president, John McCool.

The courts, lacking a professional construc-

tion manager on staff for most of the six-year period, have key documents on the project scattered in so many locations that finding contracts or their amendments becomes a chore.

The "Gle" documenting the architect selection process is a huge cardboard box mingling dog-eared records and floor plans for several projects, with numerous copies of some documents and none of others. On Friday, the court's deputy administrator, Stephanie Cole, was asked for a copy of the papers that authorized a 10 percent raise for Wong in 1984. To find those documents "is either going to be

See Page A-6, COURTHOUSE

MAY 09 '88 09:01 ACR 2ND JUD DIST FAX276-6342

COURTHOUSE EXPANSION: Six years and \$9 mil

Continued from Page A-1

very easy or very hard," she said. By the end of the day, they hadn't been located.

Kit Duke, an ex-transportation department architect hired within the past year by the courts to improve its management of the project, attributed the disarray to the fact that three or four people have held that responsibility since planning for the addition began. "There's never really been a project manager," she said. "In this project, the problem is a lack of having someone around who has continuity."

Unlike most other agencies, the court system has special legislative authority to bypass the Department of Transportation and Public Facilities and its in-house staff of project managers, architects and engineers, when constructing new buildings. Snowden began planning for the courthouse addition in 1981, when the legislature appropriated \$10 million to acquire land and design the building. On Dec. 23, 1981, he signed a contract with Wong, president of Space Management Consultants of Seattle and Honolulu, to study the space needs for the judiciary in Anchorage.

Wong, an architect and real estate developer, had met Snowden at a judicial institute in Aspen, Colo., in the early 1970s. Snowden was a court administrator in Maryland, and when he came to Alaska a few years later, he hired Wong for a series of studies of the Alaska criminal justice system.

The 1981 contract paid Wong 1 percent of the construction cost of the building. The bigger the building, the more Wong would get. And as the space consultant, Wong would be advising the court on the building size it needed.

That arrangement has since drawn fire from legislators, including Sen. Blukley, the Bethel Republican, who has argued that Wong could have a conflict of interest. But Wong, in an interview, said his fee was fair. "Our fee for the work we do is fairly minimal," he said.

Wong's work was to have been finished by June 30, 1985, with the completion of the project, and his fee and tasks were split into phases. The first phase was the biggest — producing the space management study — and was worth 55 percent of his total payment. He turned in his report on June 28, 1982, advising that 315,000 additional square feet of building would be needed by the year 2005. The courts accepted the work, and he was paid \$268,250 plus expenses, a fee based on a \$37.5 million building.

Wong set to work on his next task as liaison between the project architects and the court system, ensuring that the actual building reflected space needs and contemporary courtroom design. For that, he was to be paid another 35 percent of his total fee. The remaining 10 percent was to be paid while he watched over construction.

Along the way, project costs escalated. In March, 1983, he got another check for phase one work he completed the year before, this time for \$68,750. In March of the following year, the courts raised his fee from 1 percent to 1.1 percent, then wrote him another check for the 1982 work, this time for \$88,000. In October 1987, when the project cost was revised up again, this time to \$45 million, he got an additional \$28,228 for the old study.

Snowden says that Wong was worth the money, and went beyond the duties in his contract by assisting the court system in resolving unanticipated problems with municipal regulatory agencies.

With the downturn of the Alaska economy and the emigration of thousands of people from Anchorage, Wong was commissioned in 1987 to update his 1982 report for an additional \$35,000. His new study trimmed about 26,800 feet from the original space plan, and court officials have cut still more, but that still left a new building with roughly the



Art Snowden testifies last week before the House Judiciary Committee in

With a 10 percent decrease in population, only dropped 1 percent. If we scale back, we into a building that is full the day we move I scale it back for political reasons, but my vi can use every square foot that we've asked

Wong's revised study was ridiculed in Juneau earlier this year when legislators discovered that he set aside space for seven Supreme Court justices, when the state has only five.

In addition, he planned office space for 56 attorneys general, including 6 assigned to consumer complaints. Today, there are about 18 attorneys general in Anchorage, with two handling consumer problems. Wong planned for 13 attorneys in the Office of Special Prosecutions and Appeals, which now has a staff of eight; 30 district attorneys, where the staff now has 21; 30 public defenders, versus 23 today; 13 attorneys and 9 public guardians in the Office of Public Advocacy, where today the numbers are six and four; and 13 Superior Court courtrooms and 13 District courtrooms, where today there are eight Superior Court judges and 11 District Court judges.

Wong defended his work, saying that the downturn of the economy is only temporary.

"The Boney Building was built in the early 70s and was supposed to last 20 years, but by 1980, it was already overcrowded," he said, referring to the first courthouse annex. "You can see there could be a boom in the economy and the building which is built for 20 years is filled up in just 7 years. Over the next 15 years, if the Alaska economy gets back, and there's no reason it shouldn't be, there could be spurts again."

In April, the court system terminated his contract, and Wong agreed that even if the

In March of 1982, when on his initial study, selecting an architect, the judiciary and the ment made up the sal Wong acting as a non-v

Under a standard p competing firms mad round. According to d court system, Harold V the first choice, with Associates in second pl two top firms were a presentation to the co

McCool-McDonald of optimistic time fram design the building is possibly sooner. By McCool-McDonald's ch John McCool, cited the North Slope Borough, planned to subcontract work to one of its David Coffman.

At the time of that to federal prosecutors, paying kickbacks to lobbyist Lewis Dischn position in the borough according to a federal and Carl Mathisen, McDonald in Seattle backs from five North Dischner and Mathisen

Bars and \$9 million later, it's still only on paper



Anchorage Daily News/Finan Durner

at the House Judiciary Committee in Juneau.

increase in population, our caseload will double. If we scale back, we could move into a building that is full the day we move in. They may have political reasons, but my view is that we need a building that we've asked for.

— Art Snowden

Investigation that is nearing completion, has denied any wrongdoing. McCool said the new firm created in 1983 that took over the courthouse project — McCool, McDonald of Alaska — was separate from the Seattle company and had nothing to do with its activities.

However, in documents the Alaska firm filed with the state division of corporations in 1986, it said it was affiliated with the Washington firm, and that the Alaska employees used the Washington firm's profit-sharing pension fund. In addition, McCool, McDonald of Alaska didn't have to go through the selection process again to obtain the contract, as a totally new company might have had to do.

How the courthouse selection committee settled on McCool-McDonald is unclear from the records available. In an interview, one of the committee members, Robert Scott, said he recalled the committee was deadlocked for days over its choice "like a hung jury." In desperation, Scott said, they turned to Wong for his choice, and he picked McCool-McDonald.

Scott, who favored Wirum, said he nevertheless approved the result. "I thought the selection for the courthouse was really a good one. They presented their exhibits, and went through their oral interviews, and kept their cool. It got down to a really fine team."

The courts signed an interim contract with the architects, directing them to begin preliminary work. With the courthouse site in a potentially hazardous seismic area and secure bedrock too deep to reach, they subcontracted a geotechnical survey to the engineering firm of Harding Lawson Associates.

"We concluded in writing, in a report that I co-signed and put my Alaska registration number on, that it's just not a proper site for public occupancy where people had no choice to go into the building or not, and where there would be prisoners incarcerated," said Jay England of Harding Lawson. "Art Snowden just did not like our conclusions, so he hired a consultant from Stamford who arrived at some different conclusions."

The Stamford professor, Hareesh Shah, decided that the courthouse site was no riskier a place to build than other areas around town, and he and other consultants said the building could be strengthened to withstand the stresses of a strong quake.

In any event, the seismic issue became one of several wars fought on the local battlefield. The city's geotechnical commission decided the building shouldn't be built, then it was overruled by the planning and zoning commission.

In an earlier fight, the planning and zoning commission ruled out Snowden's original plan, to construct the entire addition on the parking lot adjacent to the courthouse. It said the building would have too much bulk, and the court system decided to spread new offices in a smaller building on the site, and upon a portion of the block across the street to the east. That plan, in turn, drew fire from historical preservationists, who sought to preserve some of the structures on the site.

All those battles took time, sending the project further and further behind schedule. And just as Wong's fees escalated, so did McCool-McDonald's. Their 1984 contract called for total fees, including those of sub-consultants, of \$536,600. By the time the contract was formally amended to increase their fees to \$2.3 million, on May 29, 1987, the firm had been paid more than \$1 million.

Snowden, now in a legislative battle he didn't want, has continued to resist calls to shrink the project any further.

"With a 10 percent decrease in population, our caseload only dropped 1 percent," he said. "If we scale back, we could move into a building that is full the day we move in. They may scale it back for political reasons, but my view is that we need a building that we've asked for."

ed in Ju-
ators dis-
for seven
state has

ice for 58
signed to
are about
with two
planned
Special
ow has a
where the
rs, versus
guardians
ers today
Superior
urtroums,
for Court

that the
porary.

the early
rs, but by
he said,
ex. "You
economy
0 years is
e next 15
back, and
ers could

nated his
an if the

In March of 1982, while Wong was working on his initial study, the court system was selecting an architect. Two officials each from the judiciary and the transportation department made up the selection committee, with Wong acting as a non-voting adviser.

Under a standard point system, four of 13 competing firms made it through the first round. According to documents on file in the court system, Harold Wirum & Associates was the first choice, with McCool-McDonald and Associates in second place. They and the other two top firms were asked to make personal presentations to the committee.

McCool-McDonald offered the committee an optimistic time frame, predicting it could design the building in 19 to 22 weeks, and possibly sooner. By way of experience, McCool-McDonald's chief architect in Alaska, John McCool, cited the firm's work with the North Slope Borough, and he said the firm planned to subcontract the structural design work to one of its North Slope partners, David Coffman.

At the time of that presentation, according to federal prosecutors, both firms had begun paying kickbacks to the influential Juneau lobbyist Lewis Dischner to maintain their position in the borough. By August of 1982, according to a federal indictment of Dischner and Carl Mathisen, employees of McCool-McDonald in Seattle were processing kickbacks from five North Slope contractors to Dischner and Mathisen. By 1984, the payments

Lawmakers agree on how to pay for state budget

By JOHN LINDBACK
Daily News reporter

JUNEAU — The annual end-of-session frenzy hit the legislature Sunday with the House and Senate pulling together informal agreements on how to pay for next year's state budget.

Business was frequently interrupted for closed-door meetings.

Both House Speaker Ben Grussendorf and Senate President Jan Falke said they hoped a so-called "adjournment package" would hold through the end of the session and last year's blow-up over balancing the budget would not be repeated.

Both presiding officers predicted a Tuesday adjournment. The 120-day session limit requires adjournment by midnight Tuesday.

"I think there's going to be a sigh of relief and a feeling of accomplishment," said Grussendorf, D-Sitka.

The package includes agreements between House and Senate leaders on major issues, include legislative approval of a \$50 million draw next year from the Railbelt Energy Fund if it's needed to plug a deficit.

If the full House and Senate don't go along with that recommendation, legislators could find themselves short of money for their budget with mandatory adjournment staring them in the face.

"If Railbelt legislators vote it down, that will be a glitch," Falke said. Anchorage and Fairbanks legislators have regarded the \$228 million savings account for energy projects as their own. Some say it should be spent only for Railbelt communities if it won't finance energy development.

"I think we have enough people who have bought off on this that it'll go," Falke said, referring to the entire package.

Gov. Steve Cowper, who conferred with small groups of legislators in his office throughout the day, also predicted that legislators would approve the draw from the Railbelt fund. Some legislators told him the votes were there, Cowper said.

The rest of the adjournment package includes:

- Giving \$40 million in extra aid this year to municipal governments. Both houses have supported it for weeks, though they've had trouble finding a way to pay for it.

- Pulling \$80 million in cash from state home loan programs to help balance the budget.

- Repealing the budget reserve fund approved at last year's special session and replacing it with Cowper's plan for a state science foundation. Cowper wants \$8 million this session and \$100 million in future budget surpluses and oil tax windfalls to make Alaska a world center for arctic research.

Although it was clear Sunday that the adjournment rush was on, it was a day of fits and starts. Both houses interrupted action for closed meetings of their majority organizations to discuss various parts of the adjournment package. Meanwhile, lobbyists and members of the public milled about in the hall for hours waiting for committee meetings and floor action to begin.

Rep. Kay Brown, D-Anchorage and an advocate of open meetings legislation this session, walked out of a House majority caucus meeting when she felt too much substantive budget discussion was going on behind closed doors. The Senate majority met to discuss how big the capital budget should be and whether or not the distribution of money between election districts was fair, Falke said.

In addition to the closed majority meetings, legislative leaders huddled in their offices to discuss fine points of some parts of the adjournment package. Democrats from the Republican-dominated Senate majority negotiated with Grussendorf and other leaders of the Democrat-led House.

During breaks in the closed-door meetings some of the most controversial legislation of the session cleared various committees or received attention in other ways. They include:

- Anchorage court house. House Judiciary Chairman John Sund was working on a plan that would require the court system to scale back on plans for a 350,000-square-foot addition to the downtown courthouse. Critics have argued that the addition exceeds the court system's needs.

- Open meetings. A proposed constitutional amendment guaranteeing public access to debates on legislation cleared the Senate Judiciary Committee and landed in the

Gross tried but failed to convince the committee to kill the amendment. If approved it goes on the November election ballot.

- Sheffield legal fees. Legislative leaders negotiated

how to put \$302,000 in the budget to repay former Gov. Bill Sheffield legal costs during 1986 impeachment proceedings against him. One plan called for legislators, wary of a public backlash, to put in a supplemental appro-

priations bill for this year's state budget.

- Guide legislation. The House Rules Committee rewrote a controversial bill on hunting guides so that it makes no changes on guide

laws for the coming year while a task force studies conflicts between guides and outfitters. The Senate version of the bill would have given guides more control over the hunting that goes on in their exclusive guiding areas.



MAY 09 '88 09:11 ACR 2ND JUD DIST FAX:276-6342

Economist predicts turnaround by end of year

The Associated Press

FAIRBANKS — Barring another drastic drop in world oil prices or a national recession, Alaska's economy should begin turning around by late this year, an economist says.

Lee Gorsuch, director of the University of Alaska's In-

stitute of Social and Economic Research, made the comments Friday in a speech to delegates attending the Alaska Credit Union League's annual meeting.

"We're predicting a modest increase in employment beginning toward the end of this year of 1 to 2 percent, or

an average of about 1.5 percent a year," Gorsuch said. "If the price of oil remains between \$14 and \$18 a barrel, state revenues and spending should stabilize at about \$2 billion a year."

Gorsuch said \$1.7 billion of that would come from a single source — the oil industry.

S B

4 4 4

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

| | | |
|---------|---------|----------|
| H. JUD. | 5-3-88 | 1:30p.m. |
| H. JUD. | 4-29-88 | 1:30p.m. |
| H. JUD. | 4-28-88 | 1:30p.m. |

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/28/88

FURTHER REFERRALS:

DATE: May 3, 1988

The Judiciary Committee has considered CSSB 444(Fin)

"An Act relating to eligibility for permanent fund dividends and providing civil penalties for certain conduct involving permanent fund dividends; and providing for an effective date."

RECOMMENDS:

- replace with HCS CSSB 444(Jud) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 4/12/88
- zero with analysis

SIGNING DO PASS:

[Signature]

John G. ...

Mike ...

SIGNING OTHER RECOMMENDATIONS:

[Signature]

Monica ...

Max ...

[Signature]

Chairman's signature

HCS SB 444 (State Affairs)
TIGHTENING UP ON ELIGIBILITY REQUIREMENTS
FOR PERMANENT FUND DIVIDENDS

THE PERMANENT FUND DIVIDEND YEAR



Requirements for PFD eligibility

CURRENT
LAW

1. Timely application.
2. Intent to make Alaska a permanent home.
3. Physical presence for more than half of the winter or an allowable absence.

SB 444:
ADDITIONAL
REQUIREMENTS

Requires physical presence at some time since July 1 of the year two years previous to the date of application.

How many PFD s were paid?

1986- 532,000 1987- 530,000

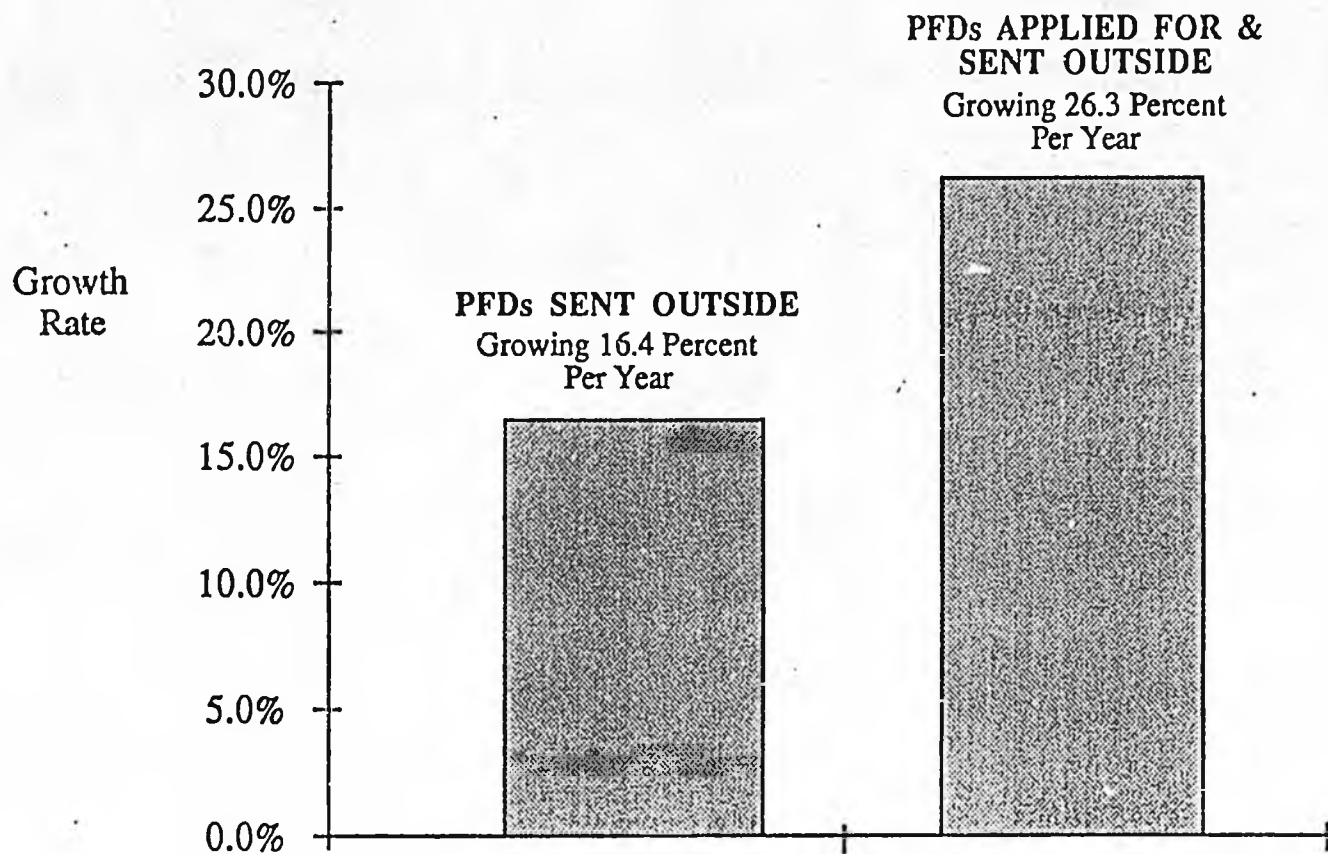
How many of these PFDs were
paid to out-of-state addresses?

1986- 19,500 1987- 22,700

*Of these PFDs,
how many were paid
to persons who also
applied from out-of-state?*

1986- 9,900 1987- 12,500

Changes In Permanent Fund Dividends: 1986-87



HCS SB 444

- * Adds requirement of physical presence at some time between date of application and July 1 of the year two years previous to the date of application. This requirement would in effect apply only to applicants with allowable absences, because all other applicants physically live in Alaska during the winter residency period.

- * Establishes civil penalties for misconduct in application for both applicant and certifying witnesses (intentional fraud still a criminal offense).

- * Adds at least \$8 million to Alaska economy in 1989.

- * Increases 1989 Permanent Fund Dividend by \$15 or more.

- * Effective date: January 1, 1989.

EVERYBODY WHO GETS A PFD SHOULD HAVE BEEN TO ALASKA IN AT LEAST TWO YEARS

- * Now 2% of PFDs go to people who apply from Outside - next year it will be 3% and in 1989 it will go to 4% of all PFDs if we don't pass this bill now. (THIS TRANSLATES TO 12,500 PFDs IN 1987, OVER 17,000 PROJECTED IN 1988 AND OVER 23,000 PROJECTED IN 1989.)
- * More than 300 people got PFDs in 1987 who haven't seen Alaska in five years.
- * People are pulling this off by claiming allowable absences, and allowable absences are exploding.
- * If you have an allowable absence, all you need to get a PFD is to claim intent to make Alaska a permanent home - we obviously can't X-ray their heads, so the number of people claiming allowable absences is ballooning.
- * We need a simple rule to solve this problem which applies to everybody - this bill does that.
- * The bill adds one additional requirement for all those who claim allowable absences - "Have you been back to Alaska in the past two years?"
- * The bill draws a line we want to draw - people who have ties to Alaska will come back here at least once in two years - especially if their way is paid by the two dividends they will thus be eligible for.
- * Adding any exceptions to the two-year rule for allowable absences will ultimately gut the bill.
- * The two-year rule for allowable absences will be enforced by civil penalties for both applicants and the two certifying witnesses (intentional fraud still a criminal offense).
- * This bill will put at least \$8 million in the Alaska economy in 1989 and every year after that - this is over 15% of the impact of the Jobs Bill.
- * This bill is expected to increase the 1989 PFD by at least \$15 and more in later years

Revenue



Official Business

Alaska State Legislature

House

P.O. BOX V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: All Members

FROM: Representative John Sund
Representative Mark Boyer
Representative Cliff Davidson
Representative Lyman Hoffman
Representative Curt Menard

SUBJECT: HCS SB 444 (Judiciary) - Permanent Fund Eligibility

DATE: May 5, 1988

We urge you to support this bill without amendment.

Each year, an increasing number of permanent fund dividends are paid to persons filing from outside the state of Alaska. Loopholes in the "allowable absence" provision allowed 12,500 dividends to be paid to out-of-state filers, up 26% from the year before.

Also increasing every year is the number of dividends paid to persons who have not set foot in the state in over five years.

SB 444 does not eliminate allowable absences. It does, however, add an additional requirement which will demonstrate a continuing tie to the state of Alaska on the part of filers by requiring them to be physically present in the state at least once in the two years prior to filing.

This new requirement will apply to all persons claiming an allowable absence, without exception. In our opinion, it is reasonable to expect anyone claiming continued residency in our state to return here at least once every two years, whatever the reason for the allowable absence.

We believe that the House Judiciary Committee Substitute treats all applicants equally and fairly, and we urge you to

Allowable absences are exceptions to the rule that to get a Permanent Fund Dividend, you have to live in Alaska during the October 1 - March 31 residency period.

If somebody has an allowable absence, he can be gone all year, year after year after year. There are 2,500 people getting Permanent Fund Dividends who apply from outside -- virtually all have allowable absences.

More than 300 people are getting Permanent Fund Dividends who haven't set foot in Alaska in more than 5 years.

Under current law, there can be no flat rule stopping someone from coming to Alaska for one day, leaving on an allowable absence and collecting Permanent Fund Dividends forever outside of Alaska.

Allowable Absences are:

- Military
- Alaska members of Congress
- State employees
- Prisoners (both adults and minors)
- Spouses and dependents of all those with allowable absences
- Medical cases
- Alaska Congressional staff
- Peace Corps
- Catch-all (anybody whose absence looks temporary -- few get this)

Breakdown of 12,500 is:

- | | |
|------------------------------------|-------------|
| - Military spouses and dependents | 50% |
| - Military members | 25% |
| - Students | 10% |
| - Students' spouses and dependents | 10% |
| - Miscellaneous | 5% |
| | <u>100%</u> |

Other Proposed Solutions

It is unconstitutional to limit Permanent Fund Dividends for people on allowable absences only to people who were residents before they became soldiers, students, etc.

It is unfeasible to solve this problem through tough enforcement; we have 11 people in Permanent Fund Dividend enforcement now -- further reliance on enforcement will force us to hire more state employees or turn the law into a joke.

"Picking up the checks in Alaska" -- It is unconstitutional to require residency at time of receipt of Permanent Fund Dividends.

Amendments with Exceptions for Groups

This bill only works if it applies to everybody.

Military

- 30 days of leave each year -- they can come here in 2 years.
- Free flights on military transport planes -- they can come home for free.
- Most military people getting Permanent Fund Dividends outside first established Alaska residency when they rotated up here in the military.

Students

- Two-year window has two Christmases, one whole summer, and parts of two others.

Medical Cases

- This allowable absence is really for medical care unavailable in Alaska-- for emergency operations--not for long-term moves out of the state.

Peace Corps

- Two-year minimum service, although 13 months is average service.

Distribution only to:

- Boyer
- Coffen
- Hoffman
- ✓ ~~Bass~~ Sund

Questions and Answers on
HCS SB 444

*Q. What are allowable absences?

A. Allowable absences are statutory and regulatory exceptions to the rule that people can only get Permanent Fund Dividends if they live in Alaska during the October 1 - March 31 winter residency period.

If someone has an allowable absence, he or she can be gone from Alaska "year after year after year."

*Q. How many people are using allowable absences?

A. There were 12,500 people who received Permanent Fund Dividends in 1987 who applied from outside Alaska. Virtually all claimed allowable absences.

*Q. What are the allowable absences?

- A.
- Military
 - Students
 - Medical cases
 - Service in Congress from Alaska
 - Congressional staff service
 - Peace Corps
 - Prisoners (both adults and minors)
 - Service as state employee
 - Anybody whose absence seems temporary ("catch-all")
 - Spouses and dependents of anybody with an allowable absence.

*Q. Which allowable absences are used the most by people getting Permanent Fund Dividends outside?

A.

| | |
|--------------------------------------|-----------|
| - Military <u>families</u> | 50% |
| - Military <u>members</u> | 25% |
| - Students | 10% |
| - Students' <u>families</u> | 10% |
| - Miscellaneous (mostly "catch-all") | <u>5%</u> |
| | 100% |

*Q. Are there actually people receiving Permanent Fund Dividends who have not set foot in Alaska for more than five years?

A. Yes. More than 300 people are receiving Permanent Fund Dividends in 1987 who stated on the application form that they have not been to Alaska in more than five years.

*Q. Is there any flat rule against someone coming to Alaska for one day, leaving the state on an allowable absence, and collecting Permanent Fund Dividends for as long as he keeps his allowable absence while never setting foot in the state again?

A. No, and under current law, no regulation could keep this from happening.

*Q. Could we legally keep people from getting Permanent Fund Dividends while they were on an allowable absence unless they were residents before they entered the activity (military, college, etc) which gave them the allowable absence?

A. No. This would be unconstitutional. Domicile and residence mean the same under constitutional law. There is no legal distinction.

*Q. Why not exempt military from the two-year window?

- 30-day leave each year.
- Military transport planes available for free flights back to Alaska.
- Most military people getting Permanent Fund Dividends outside originally established Alaska residency when they came here in the military.

*Q. Why not exempt the students from the two-year window?

A. Two years has two Christmases and one whole summer and parts of two others.

*Q. Why not exempt medical cases?

A. This allowable absence is really for medical care unavailable in Alaska--for emergency operations--not for long-term moves out of the state.

*Q. Why not exempt the Peace Corps?

A. The minimum period of service for the Peace Corps is two years; however, the average length of service is 13 months.

Three to four weeks of vacation per year with holiday allowance.

*Q. Why not exempt Congressional staff?

A. Two years is long enough for the Congressional staff to be away from the state without ever visiting.

*Q. What about the Governor's Office in D.C.?

A. They say they will be OK under this bill.

*Q. Why can't we just handle this problem through tough enforcement and administration residency rules?

A. If the current law is not going to be a joke, we would have to spend a lot of money and add a lot of state employees.

*Q. What about a legislative letter of intent saying that people claiming Permanent Fund Dividends after being out of the state on allowable absences for more than five years should carry the burden of proving residency in Alaska?

A. That is the law today. The Department of Revenue has established a rebuttable presumption that anyone who has been out of state during the winter residency period for more than five years is no longer a state resident. More than 300 people beat that presumption in 1987, and more will claim it in the future. It will be very expensive to enforce this regulation effectively.

FISCAL NOTE

REQUEST

Revision Date: _____
Title: An Act relating to eligibility
for permanent fund dividends
Sponsor: House State Affairs
Requestor: _____

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend
Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|--------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| PERSONAL SERVICES | -0- | -0- | -0- | -0- | -0- | -0- |
| TRAVEL | -0- | -0- | -0- | -0- | -0- | -0- |
| CONTRACTUAL | -0- | -0- | -0- | -0- | -0- | -0- |
| SUPPLIES | -0- | -0- | -0- | -0- | -0- | -0- |
| EQUIPMENT | -0- | -0- | -0- | -0- | -0- | -0- |
| LANDS & STRUCTURES | -0- | -0- | -0- | -0- | -0- | -0- |
| GRANTS, CLAIMS | -0- | -0- | -0- | -0- | -0- | -0- |
| MISCELLANEOUS | -0- | -0- | -0- | -0- | -0- | -0- |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | | | | | | |
| | -0- | -0- | -0- | -0- | -0- | -0- |
| REVENUE | | | | | | |
| | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Please see attached.

Prepared By: Ervin B. Jones, Director Phone: 465-2323
Division: Permanent Fund Dividend Division Date: April 28, 1988

Approved by Commissioner: Hugh Malone Date: _____
Agency: Revenue

Distribution (by preparer):

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

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
CSCSSB 444 (State Affairs)
As of April 28, 1988

This legislation would reduce the number of eligible applicants for Permanent Fund Dividends by approximately 6,000 in 1989. Although an exact figure is not possible, this reduction in applicants will serve to increase future Permanent Fund Dividends by approximately \$10.

Since persons now filing from out-of-state represent a substantial part of the Division's civil investigation effort, any real reduction will result in some decreased administrative costs in the FY 91 budget request, all else being equal. Some portion of the potential savings will be directed to increasing our efforts in criminal investigation, to reduce the potential for fraudulent filings. See attached position paper.

DEPARTMENT OF REVENUE
POSITION PAPER ON
HCS SB 444 (State Affairs)

Introduction

The Department of Revenue supports HCS SB 444 (State Affairs). This bill tightens up the rules on Permanent Fund Dividend eligibility and makes those rules easier to enforce. The bill would raise the annual dividend by at least \$15.

HCS SB 444 (State Affairs) would go a long way to reverse a trend allowed by current law. The number of people receiving Permanent Fund Dividends is falling, but the number of people receiving Permanent Fund Dividends who apply from out of state is rapidly increasing.

Approximately 12,500 dividends are now going to people who give out-of-state addresses when they file. This is more than two percent of all 1987 Permanent Fund Dividends, and represents a 25 percent increase over the figure for 1986. The Department of Revenue estimates that a minimum of two-thirds of this group -- at least 8,000 people -- are gone from the state for more than a year by the time they receive a dividend. Approximately 300 people are receiving 1986 and 1987 Permanent Fund Dividends who have not physically touched Alaska in more than five years.

Loopholes in the Eligibility Requirements for Permanent Fund Dividends

The substantial and growing number of people receiving Permanent Fund Dividends who apply from outside of Alaska is the product of some loopholes in the eligibility requirements for Permanent Fund Dividends.

Under current law, there are three requirements for someone to receive a Permanent Fund Dividend. First, the person must file an application between April 1 and June 30. Second, the person applying has to be a resident of Alaska for at least the six consecutive months between October 1 and March 31. Third, a person must be a state resident on the date of application. Thus, to get a dividend, someone must be a state resident for most of the fall and winter and still claim to be a resident for one day in the spring (AS 43.23.005 and 15 AAC 23.625).

There are two requirements for someone to be a state resident. First, the person must have an intent to remain permanently if that person is physically present in the state, and must have an intent to return and remain permanently if the person is absent (AS 43.23.095 and 15 AAC 23.665(k)). Second, the person either must be physically present in Alaska for 90 days or more between October 1 and March 31 or be absent for an allowable reason (called an "allowable absence"). The law also requires someone to have an allowable absence if he or she is absent more than 60 consecutive days from the state between October 1 and March 31.

Allowable absences thus draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's Permanent Fund Dividend. If a person has an allowable absence, on the other hand, that person may be gone for all of the winter window, gone for all of the spring filing period, and gone for all of the rest of the year -- year after year after year.

Under current law, there is no flat rule against someone coming to Alaska for a day, leaving the state on an allowable absence, and collecting Permanent Fund Dividends as long as he or she retains the allowable absence while never setting foot in the state again.

Approximately 95 percent of those people receiving 1987 dividends who applied for them from outside the state also claimed allowable absences. More than \$8 million in dividends went to this group.

Approach of CS SB 444 (Finance)

The legislation passed by the Senate would add two rules to current law concerning eligibility for Permanent Fund Dividends. The first additional rule is that, with several exceptions, applicants must be physically present the day they apply. Since the legislation does not change the application period, this would mean that applicants not fitting into the exceptions would have to be physically present in Alaska each spring for one day.

The exceptions to the physical-presence requirement at the time of application are:

1. active duty military members;
2. full-time secondary, postsecondary, or vocational students;
3. persons receiving medical treatment that is not available in the state;
4. members of Congress; and
5. any other group that the Commissioner of Revenue may allow by regulation.

The second additional rule established by CS SB 444 (Finance) is that applicants cannot claim an allowable absence for more than five consecutive years unless the applicant claims one of four exceptions. This rule means that after spending five winters in a row outside the state, all applicants not fitting into one of the exceptions must physically live in Alaska for most of the sixth winter.

The four exceptions to the "five-year cutoff" rule are:

1. persons receiving medical treatment that is not available in the state;
2. members of Congress;
3. spouses and dependents of persons receiving medical treatment that is not available in the state; and
4. spouses and dependents of members in Congress.

The effect of these rules and exceptions in CS SB 444 (Finance) is to create four classes of allowable absences. They are:

- A. Persons who have to come back one day each spring but do not have to move back after five years away to spend the sixth winter in Alaska. Included in this class are: (1) Congressional spouses and dependents; and (2) medical cases' spouses and dependents.
- B. Persons who have to come back to Alaska after five consecutive years away to spend the sixth winter in the state but do not have to return each spring to apply while physically present in the state: (1) active duty military members; (2) full-time secondary, postsecondary, or vocational students; and (3) any other persons the Commissioner of Revenue may allow by regulation.
- C. Persons not subject to either rule. Included in this class are: (1) persons receiving medical treatment that is not available in the state; and (2) members of Congress.
- D. Persons subject to both rules. Persons claiming all other allowable absences are subject to both rules.

The bill passed by the Senate also establishes civil penalties for applicants who engage in willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility.

Approach of HCS SB 444 (State Affairs)

The Senate bill is preferable to current law. The Department of Revenue favors HCS SB 444 (State Affairs), however, because the Department believes this bill is simpler, more fair, and more stable than the Senate version of the legislation. In addition, HCS SB 444 (State Affairs) draws a line between applicants consistent with the dividend program's philosophy. Finally, HCS SB 444 (State Affairs) will raise the dividend by a greater amount than the Senate bill would.

In contrast to the two additional rules and multiple exceptions contained in the Senate bill, HCS SB 444 (State Affairs) includes one rule on eligibility. That rule is that any applicant claiming an allowable absence must also have been physically present in Alaska at some time since July 1 two years previous to the year of application.

Adding this requirement would establish a relatively easily measured indicator of the intent held by the person claiming Alaska residency while living elsewhere. The bill's enactment would reflect a legislative presumption that the person who truly intends to return and remain permanently will retain sufficient ties to the state to be present at least one day in two years. This additional requirement would also make sure that Permanent Fund Dividend recipients have not completely lost touch with Alaska.

Requiring the applicant to certify that he or she has been physically present at some time is an administratively simple way of testing a person's intent to return and remain permanently in Alaska. The application form already requires that an applicant certify his or her residency on the date of application, and also requires that two other persons certify the applicant's residency. This legislation would allow the Department of Revenue to require the applicant and these two certifying witnesses to attest to the additional simple fact that the applicant has been in Alaska since July 1 two years before.

This requirement will make it more likely that dividends will be spent in Alaska. Now, more than \$8 million in dividends goes to people who apply from outside Alaska.

Putting this money back into the state has another benefit. If this bill passed, the Department of Revenue estimates that in 1989 at least 10,000 fewer people will receive dividends than would under current law. This will increase the dividend by more than \$15 per Alaskan.

The proposed legislation also establishes civil penalties for both applicants and certifying witnesses for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to recover the dividend which the individual received (AS 43.23.035(b)). The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud (the crime is "unsworn falsification" under AS 11.56.210). Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence, or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be lower than that required in criminal prosecutions.

The civil penalties would apply to such conduct by certifying witnesses as well as by the applicants. This approach is appropriate given the importance of the certifications given by the certifying witnesses that the applicant satisfies all the requirements.

Timing of SB 444

This bill would take effect January 1, 1989 and will have its first impact on the 1989 dividend distribution. This is appropriate, because printing deadlines make it too difficult to make the changes in the 1988 dividend application forms which would be required if the changes in the law went into effect this year.

Information about the loopholes in the Permanent Fund Dividend program appears to be spreading, however, which makes it critical for the Legislature to pass a bill this session which can go into effect for the 1989 dividend distribution. With the one-year lag between passage and implementation effectively forced by printing deadlines, the Legislature must take action this session, or the earliest dividend distribution it can affect will be in 1990.

Paying dividends to the people who claim to be Alaskans but have been gone for years is not what the program is all about. We believe this bill is needed to protect the integrity of the dividend program.

Original sponsors: Hensley, Kerttula,
Abood and Elias n

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 444 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to eligibility for permanent fund
7 dividends and providing civil penalties for certain
8 conduct involving permanent fund dividends; and
9 providing for an effective date."

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

11 * Section 1. AS 43.23.005(a) is amended to read:

12 (a) An individual is eligible to receive one permanent fund
13 dividend each year in an amount to be determined under AS 43.23.025 if
14 the individual applies to the department, and if

15 (1) on the date of application the individual is a state
16 resident; [AND]

17 (2) the individual was a state resident for a period of at
18 least six consecutive months immediately preceding April 1 of the
19 current dividend year; and

20 (3) the individual has been physically present in the state
21 at some time during the period beginning July 1 two years before the
22 date of application and ending on the date of application.

23 * Sec. 2. AS 43.23.015(b) is amended to read:

24 (b) The department shall prescribe and furnish an application
25 form for claiming a permanent fund dividend. The application must
26 contain a statement of eligibility and a certification of residency in
27 substantially the following form:

28 I certify that

29 () I am a state resident on the date of this ap-

1 plication, [AND] I have been a state resident for at
2 least six months immediately preceding April 1 of the
3 current dividend year, and I have been physically
4 present at some time during the period beginning
5 July 1 two years before the date of application and
6 ending on the date of this application; or

7 () (name), the individual on whose behalf I am
8 applying, is a state resident on the date of this
9 application, [AND] has been a state resident for at
10 least six months immediately preceding April 1 of
11 the current dividend year, and has been physically
12 present at some time during the period beginning
13 July 1 two years before the date of application and
14 ending on the date of this application.

15 I understand that a false claim of eligibility
16 [RESIDENCY] to obtain a permanent fund dividend for
17 myself or for another is a criminal offense, [AND]
18 that if convicted I will forfeit future [PERMANENT
19 FUND] dividends, and that I must repay all [PERMA-
20 NENT FUND] dividends that have been paid to me. I
21 understand that if I wilfully misrepresent, exer-
22 cise gross negligence, or recklessly disregard a
23 material fact regarding my eligibility for a perma-
24 nent fund dividend I will forfeit the dividend, be
25 subject to a civil fine of up to \$5,000, and lose
26 my eligibility for the next five dividends. I un-
27 derstand that these penalties are [THIS PENALTY IS]
28 in addition to any criminal penalties imposed.

1 (signature of individual,
2 parent, guardian, or other
3 authorized representative)

4 * Sec. 3. AS 43.23.035 is amended by adding a new subsection to read:

5 (c) An individual who, in claiming a permanent fund dividend, or
6 an individual who, in certifying another person's eligibility, wilful-
7 ly misrepresents, exercises gross negligence, or recklessly disregards
8 a material fact pertaining to eligibility forfeits the dividend, is
9 subject to a civil fine of up to \$5,000, and loses eligibility to
10 receive the next five dividends following the forfeited dividends.
11 The commissioner may commence proceedings in court to enforce this
12 subsection.

13 * Sec. 4. This Act takes effect January 1, 1989.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

5-1919N
Cook
4/30/88

Original sponsors: Hensley, Kerttula,
Abood and Eliason

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 444 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to eligibility for permanent fund
7 dividends and providing civil penalties for certain
8 conduct involving permanent fund dividends; and
9 providing for an effective date."

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

11 * Section 1. AS 43.23.005(a) is amended to read:

12 (a) An individual is eligible to receive one permanent fund
13 dividend each year in an amount to be determined under AS 43.23.025 if
14 the individual applies to the department, and if

15 (1) on the date of application the individual is a state
16 resident; [AND]

17 (2) the individual was a state resident for a period of at
18 least six consecutive months immediately preceding April 1 of the
19 current dividend year; and

20 (3) the individual has been physically present in the state
21 at some time during the period beginning July 1 two years before the
22 date of application and ending on the date of application.

23 * Sec. 2. AS 43.23.015(b) is amended to read:

24 (b) The department shall prescribe and furnish an application
25 form for claiming a permanent fund dividend. The application must
26 contain a statement of eligibility and a certification of residency in
27 substantially the following form:

28 I certify that

29 () I am a state resident on the date of this ap-

1 plication, [AND] I have been a state resident for at
2 least six months immediately preceding April 1 of the
3 current dividend year, and I have been physically
4 present at some time during the period beginning
5 July 1 two years before the date of application and
6 ending on the date of this application; or

7 () (name), the individual on whose behalf I am
8 applying, is a state resident on the date of this
9 application, [AND] has been a state resident for at
10 least six months immediately preceding April 1 of
11 the current dividend year, and has been physically
12 present at some time during the period beginning
13 July 1 two years before the date of application and
14 ending on the date of this application.

15 I understand that a false claim of eligibility
16 [RESIDENCY] to obtain a permanent fund dividend for
17 myself or for another is a criminal offense, [AND]
18 that if convicted I will forfeit future [PERMANENT
19 FUND] dividends, and that I must repay all [PERMA-
20 NENT FUND] dividends that have been paid to me. I
21 understand that if I wilfully misrepresent, exer-
22 cise gross negligence, or recklessly disregard a
23 material fact regarding my eligibility for a perma-
24 nent fund dividend I will forfeit the dividend, be
25 subject to a civil fine of up to \$5,000, and lose
26 my eligibility for the next five dividends. I un-
27 derstand that these penalties are [THIS PENALTY IS]
28 in addition to any criminal penalties imposed.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

(signature of individual,
parent, guardian, or other
authorized representative)

* Sec. 3. AS 43.23.035 is amended by adding a new subsection to read:

(c) An individual who, in claiming a permanent fund dividend, or an individual who, in certifying another person's eligibility, wilfully misrepresents, exercises gross negligence, or recklessly disregards a material fact pertaining to eligibility forfeits the dividend, is subject to a civil fine of up to \$5,000, and loses eligibility to receive the next five dividends following the forfeited dividends. The commissioner may commence proceedings in court to enforce this subsection.

* Sec. 4. This Act takes effect January 1, 1989.

HCS SB 444 (State Affairs)

Amendment #1

Page 1, lines 22 - 26.

Delete all material after:

"ending on the date of application."

A M E N D M E N T #2

Offered in the HOUSE

By Gruenberg

TO: HCS CSSB 444(State Affairs)

Page 1, line 21:

Delete "two"

Insert "three"

Failed
3-3

Page 1, lines 22 - 26:

~~Delete"; in this paragraph "physically present" means being physically present in the state, or, if not physically present, absent only for service in Congress or service as a staff person to a member of the Alaska delegation to Congress"~~

Insert ", unless traveling to the state would have been an extreme hardship"

Page 2, line 7, after "and":

Insert ", unless traveling to the state would have been an extreme hardship,"

Page 2, line 8:

Delete "as defined in AS 43.23.005(a)(3)"

Page 2, line 9:

Delete "two"

Insert "three"

Page 2, line 16, after "and":

Insert ", unless traveling to the state would have been an extreme
hardship,"

Page 2, line 17:

Delete "as defined in AS 43.23.005(a)(3)"

Page 2, line 18:

Delete "two"

Insert "three"

LETTER OF INTENT

for HCS SB 444 (State Affairs)

It is the intent of the Legislature that the Department of Revenue scrutinize with particular care all applications for Permanent Fund Dividends from those who claim allowable absences for more than five consecutive years. It is the further intent of the Legislature that the burden of proof shall rest on such an applicant to prove he or she is still a state resident.



Official Business

Alaska State Legislature

House

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: House State Affairs Committee

FROM: Representative Fran Ulmer, Chair
House State Affairs

DATE: April 25, 1988

RE: House Committee Substitute for SB 444(SA) Work Draft

The proposed State Affairs Committee Substitute for SB 444 accomplishes the following according to the Department of Revenue:

Permanent Fund Dividend Eligibility

- Requires that an applicant be physically present at some time in the two years before application. Individuals would have to indicate their intention of making Alaska their permanent home and have an allowable absence.
- Imposes civil penalties on reckless certifying of witnesses. Intentional fraud will remain a criminal offense.

Advantages

- Administratively simpler and more stable.
- Dividend amount increases.

LETTER OF INTENT

for HCS SB 444 (State Affairs)

It is the intent of the Legislature that the Department of Revenue scrutinize with particular care all applications for Permanent Fund Dividends from those who claim allowable absences for more than five consecutive years. It is the further intent of the Legislature that the burden of proof shall rest on such an applicant to prove he or she is still a state resident.

DEPARTMENT OF REVENUE
POSITION PAPER ON
SB 444

Introduction

The Department of Revenue supports SB 444. This bill tightens up the rules on Permanent Fund Dividend eligibility and makes those rules easier to enforce. The bill would raise the annual dividend by at least \$15, and carries a zero fiscal note.

SB 444 would go a long way to reverse a trend allowed by current law. Both the state population and the number of people receiving Permanent Fund Dividends are falling. But the number of people receiving Permanent Fund Dividends who apply from out of state is rapidly increasing.

More than 12,000 dividends are now going to people who give out-of-state addresses when they file. This is more than two percent of all 1987 Permanent Fund Dividends, and represents a 25 percent increase over the figure for 1986. The Department of Revenue estimates that a minimum of two-thirds of this group -- at least 8,000 people -- are gone from the state for more than a year by the time they receive a dividend. Approximately 300 people are receiving 1986 and 1987 Permanent Fund Dividends who have not physically touched Alaska in more than five years.

Loopholes in the Eligibility Requirements for Permanent Fund Dividends

The substantial and growing number of people receiving Permanent Fund Dividends who apply from outside of Alaska is the product of some loopholes in the eligibility requirements for Permanent Fund Dividends.

Under current law, there are three requirements for someone to receive a Permanent Fund Dividend. First, the person must file an application between April 1 and June 30. Second, the person applying has to be a resident of Alaska for at least the six consecutive months between October 1 and March 31. Third, a person must be a state resident on the date of application. Thus, to get a dividend, someone must be a state resident for most of the fall and winter and still claim to be a resident for one day in the spring (AS 43.23.005 and 15 AAC 23.625).

There are two requirements for someone to be a state resident. First, the person must have an intent to remain permanently if that person is physically present in the state, and must have an intent to return and remain permanently if the person is absent (AS 43.23.095 and 15 AAC 23.665(k)). Second, the person either must be physically present in Alaska for 90 days or more between October 1 and March 31 or be absent for an allowable reason (called an "allowable absence"). The law also requires someone to have an allowable absence if he or she is absent more than 60 consecutive days from the state between October 1 and March 31.

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
SB 444
As of March 10, 1988

This legislation would reduce the number of eligible applicants for Permanent Fund Dividends by approximately 10,000 in 1989. Although an exact figure is not possible, this reduction in applicants will serve to increase future Permanent Fund Dividends by approximately \$15.

Since persons not filing from out-of-state represent a substantial part of the Division's civil investigation effort, any real reduction will result in some decreased administrative costs in the FY 91 budget request, all else being equal. Some portion of the potential savings will be directed to increasing our efforts in criminal investigation, to reduce the potential for fraudulent filings. See attached position paper.

Allowable absences thus draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's Permanent Fund Dividend. If a person has an allowable absence, on the other hand, that person may be gone for all of the winter window, gone for all of the spring filing period, and gone for all of the rest of the year -- year after year after year.

Under current law, there is no flat rule against someone coming to Alaska for a day, leaving the state on an allowable absence, and collecting Permanent Fund Dividends as long as he or she retains the allowable absence while never setting foot in the state again.

Approximately 95 percent of those people receiving 1987 dividends who applied for them from outside the state also claimed allowable absences. More than \$8 million in dividends went to this group.

SB 444's Approach

If enacted, SB 444 would make several changes consistent with the dividend program's philosophy. First, the legislation adds to current law a requirement that an applicant be physically present in Alaska on the date of application, which can be anytime between April 1 and June 30. The bill provides for only narrow exceptions to this requirement: (1) medical treatment not available in Alaska; (2) service in Congress; and (3) spouses and dependents of these people in (1) and (2).

Adding the requirement of physical presence on the date of application would establish a relatively easily measured indicator of the intent held by the person claiming Alaska residency while living elsewhere. The bill's enactment would reflect a legislative presumption that the person who truly intends to return and remain permanently will retain sufficient ties to the state to be present at least one day during the three-month filing period. This additional requirement would also make sure that Permanent Fund Dividend recipients have not completely lost touch with Alaska.

Requiring the applicant to certify that he or she is physically present on the date of application is an administratively simple way of testing a person's intent to return and remain permanently in Alaska. The application form already requires that an applicant certify his or her residency on the date of application, and also requires that two other persons certify the applicant's residency. This legislation would allow the Department of Revenue to require the applicant and these two certifying witnesses to attest to the additional simple fact that the applicant is here in Alaska the date he or she signs the form. This requirement of physical presence on the date of application will not be an excessive burden on the applicant as the applicant can choose any day of the three-month filing period (April 1 - June 30) to file.

This requirement will also make it more likely that dividends will be spent in Alaska. Now, more than \$8 million in dividends goes to people who apply from outside Alaska.

Putting this money back into the state has another benefit. If this bill passed, the Department of Revenue estimates that in 1989 at least 10,000 fewer people will receive dividends than would under current law. This will increase the dividend by more than \$15 per Alaskan.

SB 444 also cuts off allowable absences after five consecutive years (with the few narrow exceptions that apply to the physical presence rule). When combined with the requirement of physical presence when applying, the effect of this is to allow a person to be gone for most of the winter five years in a row while being present for one day in the spring each year. The following year, the applicant would have to return to Alaska to spend most of the winter.

Finally, the proposed legislation establishes civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to recover the dividend which the individual received (AS 43.23.035(b)). The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud (the crime is "unsworn falsification" under AS 11.56.210). Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence, or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be lower than that required in criminal prosecutions.

Timing of SB 444

This bill would take effect January 1, 1989 and will have its first impact on the 1989 dividend distribution. This is appropriate, because printing deadlines make it too difficult to make the changes in the 1988 dividend application forms which would be required if the changes in the law went into effect this year.

Information about the loopholes in the Permanent Fund Dividend program appears to be spreading, however, which makes it critical for the Legislature to pass a bill this session which can go into effect for the 1989 dividend distribution. With the one-year lag between passage and implementation effectively forced by printing deadlines, the Legislature must take action this session, or the earliest dividend distribution it can affect will be in 1990.

Paying dividends to the people who claim to be Alaskans but have been gone for years is not what the program is all about. We believe this bill is needed to protect the integrity of the dividend program.

How many PFD s were paid?

1986- 532,000 1987- 530,000

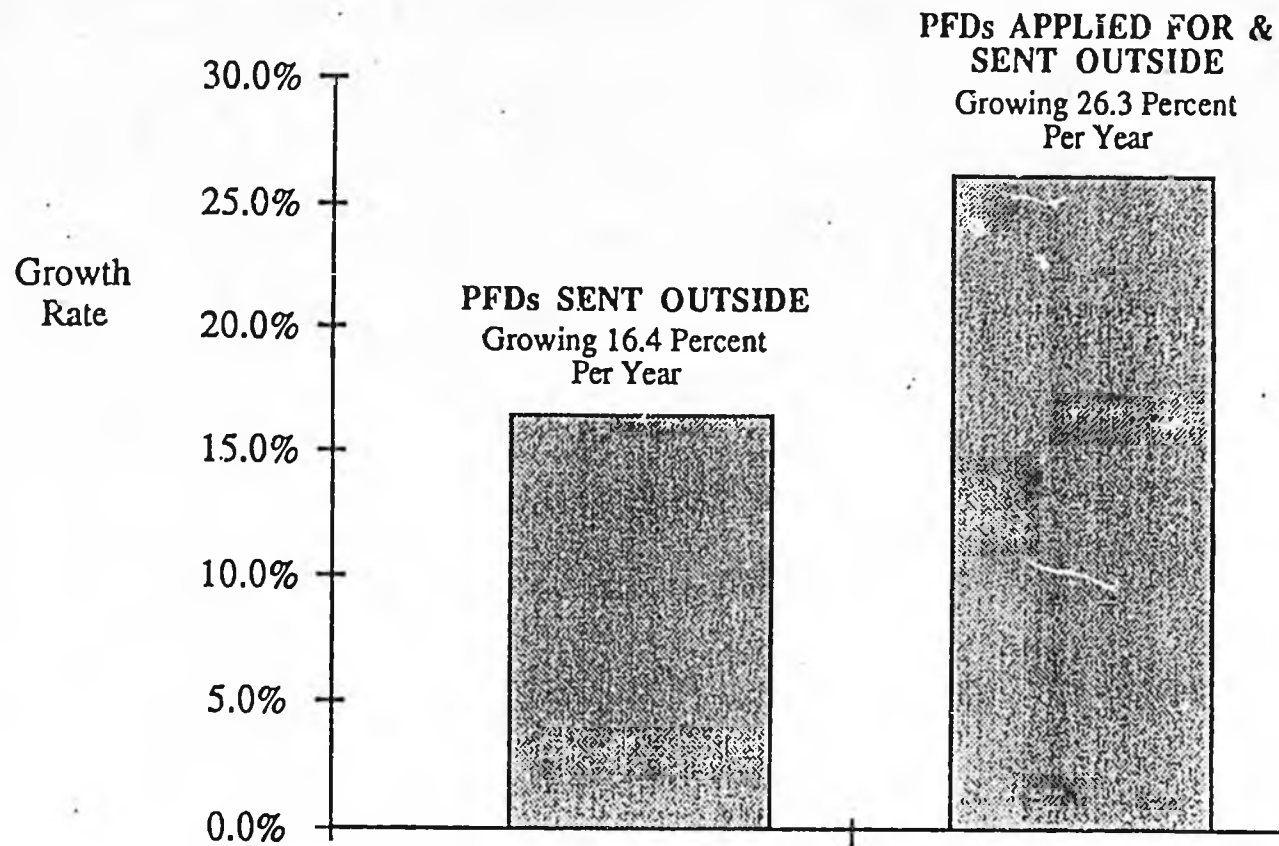
*How many of these PFDs were
paid to out-of-state addresses?*

1986- 19,500 1987- 22,700

*Of these PFDs,
how many were paid
to persons who also
applied from out-of-state?*

1986- 9,900 1987- 12,500

Changes In Permanent Fund Dividends: 1986-87



CS SB 444 (Finance) (passed the Senate)
Four Classes of Allowable Absences

- A. People who have to come back one day each spring but do not have to move back every 5 years to spend the winter.
 - 1. Congressional spouses and dependents.
 - 2. Medical cases' spouses and dependents.

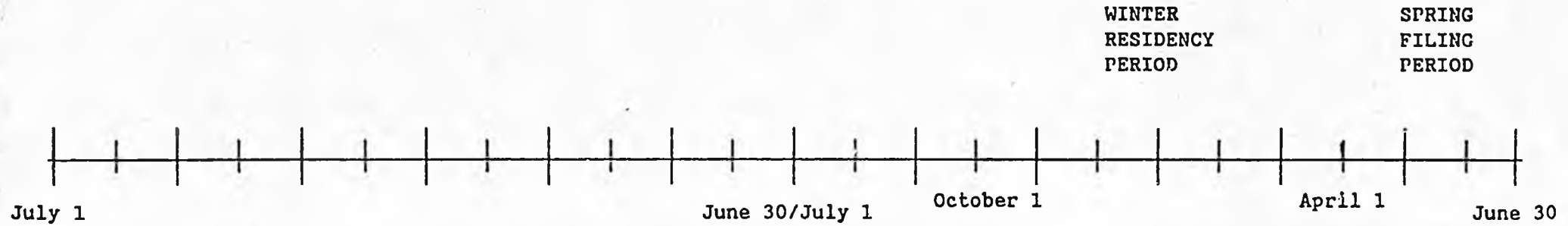
- B. People who have to come back every sixth winter to spend the winter but don't have to fly back for one day in the spring.
 - 1. Active duty military members.
 - 2. Students.
 - 3. Other folks the Commissioner may let in by regulation.

- C. People who don't have to do either.
 - 1. - Medical cases.
 - 2. Members of Congress.

- D. Everybody else has to do both.

HCS SB 444 (State Affairs)
TIGHTENING UP ON ELIGIBILITY REQUIREMENTS
FOR PERMANENT FUND DIVIDENDS

THE PERMANENT FUND DIVIDEND YEAR



Requirements for PFD eligibility

CURRENT
LAW

1. Timely application.
2. Intent to make Alaska a permanent home.
3. Physical presence for more than half of the winter or an allowable absence.

SB 444:
ADDITIONAL
REQUIREMENTS

Requires physical presence at some time since July 1 of the year two years previous to the date of application.

HCS SB 444

- * Adds requirement of physical presence at some time between date of application and July 1 of the year two years previous to the date of application. This requirement would in effect apply only to applicants with allowable absences, because all other applicants physically live in Alaska during the winter residency period.

- * Establishes civil penalties for misconduct in application for both applicant and certifying witnesses (intentional fraud still a criminal offense).

- * Adds at least \$8 million to Alaska economy in 1989.

- * Increases 1989 Permanent Fund Dividend by \$15 or more.

- * Effective date: January 1, 1989.

FISCAL NOTE

REQUEST

Revision Date: _____
Title: An Act relating to eligibility
for permanent fund dividends
Sponsor: Hensley, Kerttula, Abood et.al.
Requestor: _____

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend
Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 |
|------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| PERSONAL SERVICES | -0- | -0- | -0- | -0- | -0- | -0- |
| TRAVEL | -0- | -0- | -0- | -0- | -0- | -0- |
| CONTRACTUAL | -0- | -0- | -0- | -0- | -0- | -0- |
| SUPPLIES | -0- | -0- | -0- | -0- | -0- | -0- |
| EQUIPMENT | -0- | -0- | -0- | -0- | -0- | -0- |
| LANDS & STRUCTURES | -0- | -0- | -0- | -0- | -0- | -0- |
| GRANTS, CLAIMS | -0- | -0- | -0- | -0- | -0- | -0- |
| MISCELLANEOUS | -0- | -0- | -0- | -0- | -0- | -0- |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Please see attached.

Prepared By: Ervin B. Jones, Director
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: March 10, 1988

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 3/10/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/15/88

FURTHER REFERRALS: Judiciary

DATE: 4-27-88

The State Affairs Committee has considered CSSB 444(Fin)

"An Act relating to eligibility for permanent fund dividends and providing civil penalties for certain conduct involving permanent fund dividends; and providing for an effective date."

RECOMMENDS:

- replace with HCS CS SB 444(SA) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact
- zero fiscal note
- zero with analysis
- same as previous fiscal note published _____
- same as previous zero fiscal note published 4/12/88

SIGNING DO PASS:

W. A. Brucher (as amended)
David J. Joubert
Mark [unclear]
[unclear]
[unclear]

SIGNING OTHER RECOMMENDATIONS:

Terry Martin - needs amendment to protect military residents

[Signature]
 Chairman's signature

Rep Mark Boyer
Alaska State Legislature

Dear Representative Boyer:

As both a resident of this great state of Alaska and as an officer in the Air Force I am deeply concerned about the way the Permanent Fund is being misused by being sent to many members in the military community who are not in reality Alaska State residents. Currently permanent fund dividend checks will not be mailed out of state to any civilians who claim residency but can be sent to members of the armed services who have been living out of state for up to 5 years. I don't think this practice is fair to the civilian sector of our state. I personally know of several air force families who have been stationed here for a short period of time and now have been moved elsewhere who continue receiving dividend checks for each member of the family. Most of these have no intention of ever returning to Alaska. In fact many of these didn't want to come here to begin with, hated Alaska, did not live on base, and did not show any desire to live here any longer than necessary. However since they could receive dividend checks by claiming residency they did so and are now using those checks to help support the economy of the states where they are now living until their 5 years are up. Two families I know are receiving yearly dividend checks who have purchased homes in other states where they now live. Neither chose to live off base while here in Alaska. One of these families is receiving 6 dividend checks a year to help make their house payments. There is something really wrong with a system that allows this to occur. To remedy this very unjust system I suggest we make the following changes to the way our Permanent Fund is distributed.

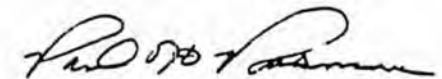
- #1. Domicile requirements should be the same for both civilians and military alike. If someone is living out of state he should not receive a permanent fund check. A possible exception to this rule might be for a soldier who gets sent to a remote assignment and his/her family remains here in Alaska.
- #2. If #1 is felt unacceptable at the very least in order to get a permanent fund check mailed to him out of state a soldier must be able to show some permanent roots established by owning a home here in Alaska.
- #3. All members of the same household should be required to claim Alaskan residency in order to qualify for a dividend check. It is not uncommon for the military wage earner to retain his home state residency status while his nonworking wife and children all claim Alaska residency. By doing this when he returns to his home state he still retains his residency status should he decide to go back to school. Also if he is enlisted he can get overseas pay. On the other hand all his dependants continue getting their yearly dividend checks although they aren't really planning on staying behind when he leaves.

Neither the USAF or USA publish data on what percent of the military who continue to claim Alaska residency and their permanent fund checks ever return to the state permanently (because it would make them look bad). I am sure it is quite common however because I know many in my section alone who fit into that category.

Please look into this regrettably inequitable situation during your busy current legislative session and do what correcting you feel is necessary. All resident of our great State need to be treated equally and fairly whether civilian or military. Alaska's State Government is responsible to the residents and the economy of Alaska alone. It should not be funding the economy of the other 49 states because someone living there just happened to be stationed here in Alaska in the past.

I would love to hear your reply if you ever have time in your busy schedule.

Sincerely



Capt. Paul H. Rasmussen
3361 Fernwood Ave
North Pole, AK 99705

DEPARTMENT OF REVENUE
POSITION PAPER ON
SB 444

Introduction

The Department of Revenue supports SB 444. This bill tightens up the rules on Permanent Fund Dividend eligibility and makes those rules easier to enforce. The bill would raise the annual dividend by at least \$15, and carries a zero fiscal note.

SB 444 would go a long way to reverse a trend allowed by current law. Both the state population and the number of people receiving Permanent Fund Dividends are falling. But the number of people receiving Permanent Fund Dividends who apply from out of state is rapidly increasing.

More than 12,000 dividends are now going to people who give out-of-state addresses when they file. This is more than two percent of all 1987 Permanent Fund Dividends, and represents a 25 percent increase over the figure for 1986. The Department of Revenue estimates that a minimum of two-thirds of this group -- at least 8,000 people -- are gone from the state for more than a year by the time they receive a dividend. Approximately 300 people are receiving 1986 and 1987 Permanent Fund Dividends who have not physically touched Alaska in more than five years.

Loopholes in the Eligibility Requirements for Permanent Fund Dividends

The substantial and growing number of people receiving Permanent Fund Dividends who apply from outside of Alaska is the product of some loopholes in the eligibility requirements for Permanent Fund Dividends.

Under current law, there are three requirements for someone to receive a Permanent Fund Dividend. First, the person must file an application between April 1 and June 30. Second, the person applying has to be a resident of Alaska for at least the six consecutive months between October 1 and March 31. Third, a person must be a state resident on the date of application. Thus, to get a dividend, someone must be a state resident for most of the fall and winter and still claim to be a resident for one day in the spring (AS 43.23.005 and 15 AAC 23.625).

There are two requirements for someone to be a state resident. First, the person must have an intent to remain permanently if that person is physically present in the state, and must have an intent to return and remain permanently if the person is absent (AS 43.23.095 and 15 AAC 23.665(k)). Second, the person either must be physically present in Alaska for 90 days or more between October 1 and March 31 or be absent for an allowable reason (called an "allowable absence"). The law also requires someone to have an allowable absence if he or she is absent more than 60 consecutive days from the state between October 1 and March 31.

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
SB 444
As of March 10, 1988

This legislation would reduce the number of eligible applicants for Permanent Fund Dividends by approximately 10,000 in 1989. Although an exact figure is not possible, this reduction in applicants will serve to increase future Permanent Fund Dividends by approximately \$15.

Since persons not filing from out-of-state represent a substantial part of the Division's civil investigation effort, any real reduction will result in some decreased administrative costs in the FY 91 budget request, all else being equal. Some portion of the potential savings will be directed to increasing our efforts in criminal investigation, to reduce the potential for fraudulent filings. See attached position paper.

Allowable absences thus draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's Permanent Fund Dividend. If a person has an allowable absence, on the other hand, that person may be gone for all of the winter window, gone for all of the spring filing period, and gone for all of the rest of the year -- year after year after year.

Under current law, there is no flat rule against someone coming to Alaska for a day, leaving the state on an allowable absence, and collecting Permanent Fund Dividends as long as he or she retains the allowable absence while never setting foot in the state again.

Approximately 95 percent of those people receiving 1987 dividends who applied for them from outside the state also claimed allowable absences. More than \$8 million in dividends went to this group.

SB 444's Approach

If enacted, SB 444 would make several changes consistent with the dividend program's philosophy. First, the legislation adds to current law a requirement that an applicant be physically present in Alaska on the date of application, which can be anytime between April 1 and June 30. The bill provides for only narrow exceptions to this requirement: (1) medical treatment not available in Alaska; (2) service in Congress; and (3) spouses and dependents of these people in (1) and (2).

Adding the requirement of physical presence on the date of application would establish a relatively easily measured indicator of the intent held by the person claiming Alaska residency while living elsewhere. The bill's enactment would reflect a legislative presumption that the person who truly intends to return and remain permanently will retain sufficient ties to the state to be present at least one day during the three-month filing period. This additional requirement would also make sure that Permanent Fund Dividend recipients have not completely lost touch with Alaska.

Requiring the applicant to certify that he or she is physically present on the date of application is an administratively simple way of testing a person's intent to return and remain permanently in Alaska. The application form already requires that an applicant certify his or her residency on the date of application, and also requires that two other persons certify the applicant's residency. This legislation would allow the Department of Revenue to require the applicant and these two certifying witnesses to attest to the additional simple fact that the applicant is here in Alaska the date he or she signs the form. This requirement of physical presence on the date of application will not be an excessive burden on the applicant as the applicant can choose any day of the three-month filing period (April 1 - June 30) to file.

This requirement will also make it more likely that dividends will be spent in Alaska. Now, more than \$8 million in dividends goes to people who apply from outside Alaska.

Putting this money back into the state has another benefit. If this bill passed, the Department of Revenue estimates that in 1989 at least 10,000 fewer people will receive dividends than would under current law. This will increase the dividend by more than \$15 per Alaskan.

SB 444 also cuts off allowable absences after five consecutive years (with the few narrow exceptions that apply to the physical presence rule). When combined with the requirement of physical presence when applying, the effect of this is to allow a person to be gone for most of the winter five years in a row while being present for one day in the spring each year. The following year, the applicant would have to return to Alaska to spend most of the winter.

Finally, the proposed legislation establishes civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to recover the dividend which the individual received (AS 43.23.035(b)). The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud (the crime is "unsworn falsification" under AS 11.56.210). Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence, or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be lower than that required in criminal prosecutions.

Timing of SB 444

This bill would take effect January 1, 1989 and will have its first impact on the 1989 dividend distribution. This is appropriate, because printing deadlines make it too difficult to make the changes in the 1988 dividend application forms which would be required if the changes in the law went into effect this year.

Information about the loopholes in the Permanent Fund Dividend program appears to be spreading, however, which makes it critical for the Legislature to pass a bill this session which can go into effect for the 1989 dividend distribution. With the one-year lag between passage and implementation effectively forced by printing deadlines, the Legislature must take action this session, or the earliest dividend distribution it can affect will be in 1990.

Paying dividends to the people who claim to be Alaskans but have been gone for years is not what the program is all about. We believe this bill is needed to protect the integrity of the dividend program.

CS SB 444 (Finance) (passed the Senate)
Four Classes of Allowable Absences

- A. People who have to come back one day each spring but do not have to move back every 5 years to spend the winter.
 - 1. Congressional spouses and dependents.
 - 2. Medical cases' spouses and dependents.

- B. People who have to come back every sixth winter to spend the winter but don't have to fly back for one day in the spring.
 - 1. Active duty military members.
 - 2. Students.
 - 3. Other folks the Commissioner may let in by regulation.

- C. People who don't have to do either.
 - 1. Medical cases.
 - 2. Members of Congress.

- D. Everybody else has to do both.

John -

The Dept. of Law
says federal court

~~Suit~~ Sailors + Soldiers Relief

A.C. does not ban
this bill -

+ was aimed at
civil suits against military -

Cliff

... to come such

MEMORANDUM

State of Alaska

Department of Law

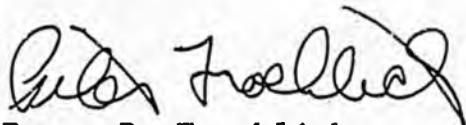
TO: Honorable Hugh Malone
Commissioner
Department

DATE: May 5, 1988

FILE NO.

TEL. NO.: 465-3600

SUBJECT: Possible House floor
amendments to SB 444 on
eligibility for PFDs



FROM: Peter B. Froehlich
Assistant Attorney General

It has come to our attention that there may be an attempt to amend SB 444 on the House floor, based on a distinction in military law between "domicile" and "residence". We want to inform you that such an amendment would almost certainly be constitutionally defective because there is no corresponding distinction between these two concepts in constitutional law.

In fact, one's "domicile" or "home of record" under military law is exactly the same as one's "residence" under constitutional law and Alaska law. Both are defined as the place where one intends to make his or her permanent home, or, in the words of AS 43.23.095(7), "to remain permanently".

Any attempt to amend SB 444 based on such a "distinction without a difference" would seriously jeopardize the carefully crafted constitutional balance of the bill.

Please let us know if we can provide any further information or assistance on this bill.

John —

I think this will
be Ramona's and +



THE DIFFERENCES BETWEEN THE HOUSE AND SENATE'S BILLS

① The Senate bill had two rules on eligibility (you have to be physically present to apply and you cannot claim allowable absences more than 5 years in a row) and then made multiple exceptions to these rules —

while the House has one rule (everybody with an allowable absence must have been back to Alaska at some time in the past two years) and no exceptions.

② The Senate bill has civil penalties for ~~which apply to~~ gross negligence, reckless disregard, and willful misrepresentation which apply to applicants only,

while the House bill applies those civil penalties to applicants and co-signing ~~cert~~ witnesses a life (certifying witnesses)

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/15/88

FURTHER REFERRALS: Judiciary

DATE: 4-27-88

The State Affairs Committee has considered CSSB 444 (Fin)

"An Act relating to eligibility for permanent fund dividends and providing civil penalties for certain conduct involving permanent fund dividends; and providing for an effective date."

RECOMMENDS:

- replace with HCS CS SB 444(SA) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact
- zero fiscal note
- zero with analysis
- same as previous fiscal note published _____
- same as previous zero fiscal note published 4/12/88

SIGNING DO PASS:

David L. Bricker (as amend)
David Doudy
Mark [unclear]
Ernie [unclear]
Carl [unclear]

SIGNING OTHER RECOMMENDATIONS:

Terry Martin - needs amendment to protect military residents

[Signature]
 Chairman's signature