

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6648 SENATE STATE AFFAIRS

105

regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted in whole or in part from regulation under AS 42.05.711(a) or (d) - (k) or is exempted by AS 42.05.831 from complying with AS 42.05.361 - 42.05.431.

Section 3. Statement of Intent. In the event that Section 42.05.861(b) of this bill is determined to be invalid and is stricken from the bill, it is the intent of the people that the provisions of any similar bill shall be construed, to the extent possible, in harmony. It is the further intent of the people that, in the event of irreconcilable conflict between similar bills, competition in long distance telephone services be encouraged, but that competition not result in rate increases that jeopardize the universal availability of affordable long distance telephone services.

A BILL

For an Act entitled: "An Act relating to intrastate long distance telephone competition."

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

Section 1. AS 42 is amended by adding a new chapter to read:

CHAPTER 12. INTRASTATE LONG-DISTANCE TELEPHONE SERVICE.

SEC. 42.12.010. FINDINGS AND PURPOSE. The people of the State of Alaska declare that:

(1) modern, efficient, affordable, and universally available long distance telephone services are essential to the people of the state;

(2) long distance telephone services should be provided by competing suppliers wherever possible;

(3) technological advances, reduced costs, and increased consumer choices for long distance telephone services resulting from competition will enhance the state's economic development and play a critical role in the state's economic future; and

(4) universal long distance telephone service should be maintained through the vigilance of the Alaska Public Utilities Commission, and where necessary, by appropriate additional legislative action.

Sec. 42.12.020. COMPETITIVE LONG DISTANCE TELEPHONE SERVICE. A telephone company that was not certificated under AS 42.05.221-42.05.281 to provide intrastate service on January 1, 1989, and

that is not affiliated with a telephone company certificated to provide intrastate service, may provide long distance telephone service after filing with the commission the notice required by AS 42.12.040. The long distance telephone service provided by an entity providing interexchange service under this section is exempt from regulation under AS 42.05.

Sec. 42.12.030. DEREGULATION OF SERVICES. (a) Upon the request of an interested party or on its own motion, the commission shall exempt from regulation under AS 42.05 the intrastate long distance service provided by an entity certificated under AS 42.05.221 - 42.05.281 to provide such service or by an affiliate of an entity certificated to provide such service if the commission finds, after notice and opportunity for hearing, that the entity or affiliate lacks market power in the telecommunications service and is not affiliated with an entity having market power in the telecommunications service.

(b) The exemption provided by this section applies only to the intrastate long distance telephone services exempted under this section. All other services remain subject to regulation under AS 42.05.

(c) When a service is exempted under this section, the commission shall determine the fully distributed cost of the exempted service and the fully distributed cost of the services not exempted from AS 42.05 that are provided by the entity. In determining the respective fully distributed costs of service, the commission shall rely where possible on the methodology and

procedures set out in the Jurisdictional Separations Procedures adopted by the Federal Communications Commission.

(d) After exemption of a service, the cost of a regulated service recoverable for rate-making purposes may not include any part of the fully distributed cost of an exempted service and the rates for a regulated service may not include recovery of all or part of the fully distributed cost of an exempted service.

Sec. 42.12.040. NOTICE. (a) A telephone company exempted from regulation under this chapter or providing a service that is exempted from regulation under this chapter shall file a notice with the commission before providing an exempted long distance service. The notice shall contain:

(1) the name of the telephone company that will provide the service and the address of the telephone company's principal place of business in the state;

(2) a description of each interexchange service to be provided and the price to be charged for each service; and

(3) proof that the telephone company has posted the surety bond required by AS 42.12.090.

(b) A telephone company that changes its name, address, services provided, prices charged, or surety bond shall file a revised notice with the commission within 30 days after the change.

(c) The prices and services filed under this section are not subject to approval by the commission.

Sec. 42.12.050. REIMPOSITION OF REGULATION. The commission

may regulate a telephone company providing service under AS 42.12.020 if it finds that the telephone company has, or is affiliated with a telephone company that has, market power in a telecommunications market. The commission may reimpose regulation on a service that was exempted from regulation under AS 42.12.030 if it finds, after notice and opportunity for hearing, that the provider of the service or an affiliate of the provider has market power in the service. After reimposition of regulation, the telephone company or service is subject to AS 42.05 with regard to a service in which the entity has market power and is exempt from AS 42.05 with regard to a previously exempted service in which the telephone company lacks market power.

Sec. 42.12.060. EXCHANGE ACCESS CHARGES. The commission shall establish, by regulation, a system of nondiscriminatory access charges to be paid by long distance telephone service providers for using the facilities of local exchange carriers in originating and terminating intrastate communications. Under the regulations, the exchange carrier association or the local exchange carriers shall file with the commission a tariff showing the rates and other terms under which access service is provided. The association or carriers shall file revised tariffs annually on the date set by the federal Communications Commission for the annual filing of revised interstate exchange access charges or on another anniversary date set by the commission.

Sec. 42.12.070. UNIVERSAL SERVICE FUND. To the extent permitted under Article IX, Section 7, of the Alaska Constitution,

the commission may establish, by regulation, an intrastate long distance universal service fund funded through the access charges or other means to be determined by the commission and maintained by the exchange carrier association established under AS 42.12.080 or, if one does not exist, by exchange carriers. The purpose of the fund will be to provide financial support, where necessary, to ensure the provision of long distance telephone service at reasonable rates throughout the state.

Sec. 42.12.080. EXCHANGE CARRIER ASSOCIATION. The commission may authorize the formation of an association of exchange carriers to assist in administering the system of access charges and may authorize the association to file tariffs and to engage in pooling of exchange access costs and revenue if necessary to achieve the purposes of this chapter.

Sec. 42.12.090. SURETY BOND FOR ACCESS CHARGES. A telephone company providing or proposing to provide long distance telephone service shall post a surety bond in an amount equal to 90 days estimated intrastate exchange access charges. The surety bond shall be payable to the exchange carrier association under AS 42.12.080, if one exists, or to the exchange carriers providing exchange access to the telephone company.

Sec. 42.12.100. RESTRICTIONS ON RESALE OF TELECOMMUNICATIONS SERVICES PROHIBITED. A telephone company may not prohibit or restrict the resale of telecommunications service. If an interexchange telecommunications service is resold, the reseller shall receive credit in an appropriate amount for an applicable

exchange access charge if the credit is necessary to prevent double payment of the access charges.

Sec. 42.12.110. DISCRIMINATION IN SERVICE PROHIBITED. A telephone company that provides intrastate exchange access or other intrastate telecommunications service or interconnection to a customer or other entity shall,

(1) provide the access, service, or interconnection on a nondiscriminatory basis to all other customers or entities that request the access, service, or interconnection; and

(2) permit connection to be made and service to be furnished between a system or facility operated by it and a system or facility operated by another when the public convenience and necessity require the connection and the connection will not result in substantial injury to the owner or other users of the system or a substantial detriment to the service provided by the owner of the system.

Sec 42.12.120. DETERMINATION OF MARKET POWER. In determining whether an entity has market power under this chapter, the commission shall refer to reported court and administrative agency decisions interpreting state and federal laws concerning monopolies, restraints of trade, and the telecommunications industry.

Sec 42.12.130. DEFINITIONS. In this chapter,

(1) "commission" means the Alaska Public Utilities Commission established in AS 42.05.010;

(2) "interexchange service" means intrastate telecommunications service provided between exchanges served by a class 5 end office;

(3) "intrastate service" means intrastate exchange or interexchange telecommunications service provided to the public;

(4) "local exchange carrier" or "exchange carrier" means a carrier that provides service within a local exchange and interconnects with interexchange carriers for the origination and termination of long distance communications;

(5) "long distance telephone service" or "long distance service" means intrastate interexchange telecommunication service provided to the public;

(6) "telephone company" means an entity providing or proposing to provide exchange or interexchange telecommunications service to the public.

* Sec. 2 AS 29.35.070(a) is amended to read:

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a), [OR] (d) - (k), or (m).

* Sec. 3. AS 42.05.711(1) is amended to read:

(1) A person, utility, or cooperative that is exempt from regulation under AS 42.05.711(a), [OR] (d) - (k), or (m) is

not subject to regulation by a municipality under AS 29.35.060 and 29.35.070.

* Sec. 4. AS 42.05.711 is amended by adding a new subsection to read:

(m) A utility or service that is exempt under AS 42.12 is exempt from this chapter to the extent stated in AS 42.1 2.

* Sec. 5. AS 45.50.572(d) is amended to read:

(d) AS 45.50.562 - 45.50.596 do not apply to public utilities that [which] have been issued a certificate of public convenience and necessity under AS 42.05 to the extent the utility provides services other than interexchange telecommunications service. The sections shall apply to the provision of interexchange telecommunications service.

* Sec. 6. The commission shall adopt the regulations required by AS 42.13.060, enacted by Sec. 1 of this Act, within three months of the effective date of this Act.

* Sec. 7. Severability. If any provision of this Act or portion of a provision is declared by a court of competent jurisdiction to be invalid, for any cause, such invalid provision or portion of it shall be considered to be nonexistent and the remainder of this chapter shall continue in full force and effect.

* Sec. 8. Repeal of Inconsistent Law. In case of conflict between provisions of this Act and other provisions contained in the Alaska Statutes or the provisions of any administrative regulation, the provisions of this Act shall take precedence.

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



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

907-465-3712

Senate State Affairs Committee

May 2, 1990

Members of the House of Representatives;

The Senate State Affairs Committee passed out CS SB 206 on May 2nd. This bill represents a compromise between GCI and Alascom on the issue of intrastate competition. In addition, the APUC has voted its unanimous support of this bill. Specifically, the bill requires the APUC to adopt regulations authorizing and establishing intrastate long distance telephone competition by February 14, 1991. This legislation is intended to be substantially similar to both ballot initiatives on intrastate competition, thereby removing both initiatives from the ballot. If the legislation is found by the Lt. Governor to be substantially similar to only one or neither of the initiatives, the legislation would be repealed.

I am bringing this to your attention because of your interest in this issue. I commend this bill to you and urge your support. I would be happy to stop by your office to discuss it further with you and to answer any questions you may have.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat", written in dark ink.

Senator Pat Pourchot

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

L & C

FURTHER

FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 5.2.90

3/6/89

Mr. President:

SA

Committee considered

SB 206

intrastate competition in telecommunications; continuing the existence of the Alaska Public Utilities Commission; efd

and recommended:

- replace with (CS) SB 206 same title
- attached amendment(s) and new title
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

*Fiscal Note
Pending - APUC*

FISCAL NOTE(S) attached zero fiscal impact
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tom Kelly
Gene Smith
Al Adams

Pat Paul M. Lopez
 Chairman signature and recommendation

Committee backup attached

May 2, 1990

The Honorable Pat Pourchot
Alaska State Legislature
Capitol, Room 504
P. O. Box V
Juneau, Alaska 99811



Dear Senator Pourchot:

On behalf of GCI, I want to thank you for your tremendous efforts regarding CS 206 (attached). GCI supports CS 206 as introduced on May 2, 1990, subject to the following representations being made by both GCI and Alascom:

(1) GCI will not seek, nor support, any amendments or direct or indirect changes to the May 2, 1990 version of CS 206. We will withdraw our support of CS 206 if such amendments or changes are made, and ask you and others to do the same. Furthermore, we will withdraw our support of CS 206 if any attempt is made to amend the APUC's regulatory authority through other bills this year.

(2) GCI supports the finding that CS 206 is substantially similar to 89-TELE and 89-ALAS. In this regard, we will not challenge in court, or elsewhere, a determination that CS 206 is substantially similar to both initiatives. Conversely, if a determination is made that CS 206 is not substantially similar to either initiative or to both initiatives, we will challenge that determination in court and argue that CS 206 is substantially similar to both initiatives. Furthermore, if any third party challenges the substantial similarity of CS 206 to either or both initiative, we agree to intervene in the lawsuit to support the position that CS 206 is substantially similar to both initiatives.

(3) We will not challenge the legality, including the constitutionality, of CS 206. If any third party challenges the legality of CS 206, we agree to intervene in the lawsuit and support the position that CS 206 is legal.

(4) We agree to meet with members of the State Senate and House to communicate the representations contained in this letter at your earliest convenience.

Again, thank you for your outstanding and crucial role in developing CS 206. We look forward to working with you in the future on overseeing its effective implementation.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ron Duncan', written over a circular stamp or mark.

Ron Duncan
President

John E. McGill
Executive Vice President
& General Manager



May 2, 1990

Senator Pat Pourchot
Chairman, Senate State
Affairs Committee
Room 504
State Capitol Building
Juneau, Alaska 99811

Re: The Intrastate Long-Distance Telephone Competition Bill (CS 206)

Dear Senator Pourchot:

This letter supersedes the similar letter I sent to you earlier today. GCI has asked for additional comfort from Alascom, and I am happy to give it.

As I said earlier, I have reviewed the telephone competition bill carefully, including the change to section 810(b) proposed this morning.¹ Alascom wants to compete and believes that this bill will permit competition. Alascom supports the bill and makes the following commitments to you and the legislature:

1. Alascom will not, directly or through a third party, attempt to amend the bill. If amendments are made, Alascom will withdraw its support for the bill. Alascom will also withdraw its support if the APUC's regulatory

¹Section 810(b) contains a provision keyed to facilities owned by long-distance telephone companies on May 1, 1990. Alascom does not know every place in the state where, on May 1, 1990, companies other than Alascom owned and operated facilities to provide interstate long-distance message telephone service. Alascom believes that GCI on May 1, 1990, owned and operated such facilities in Anchorage, Fairbanks, Juneau, Ketchikan, the Kensi-Soldotna area, the Mat-Su area, and Eagle River. GCI may have owned and operated facilities in other places. If necessary, the APUC can determine what other facilities were owned and operated on May 1, 1990, by companies other than Alascom

Senator Pat Pourchot
May 2, 1990
Page Two

authority is changed this year by other bills which affect the purpose, spirit, or intent of this bill.²

2. Alascom will not challenge the legality, including the constitutionality of the bill. If anyone challenges the legality of the bill, Alascom will intervene in the lawsuit and support the legality of the bill.
3. Alascom agrees with and will support the legislative finding that the bill is substantially similar to the initiatives 89-TELE and 89-ALAS. Alascom will not challenge this finding in court or elsewhere and will contest any finding that the bill is not substantially similar to both initiatives.

Senator, I sincerely thank you for your interest and concern. Your efforts have been invaluable, and we deeply appreciate your support.

Sincerely,



John E. McGill
Executive Vice President and
General Manager

whm

²Bills have been introduced which change the APUC's authority but which either do not affect or are consistent with this bill.

Rec'd 5-2-90
Rm 504
2:00 pm

6-0689E
Cramer
5/2/90

Original sponsor(s): SEN. FRANK, Sturgulewski, Fischer

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
 2 CS FOR SENATE BILL NO. 206 (State Affairs)
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA
 4 SIXTEENTH LEGISLATURE - SECOND SESSION
 5 A BILL

6 For an Act entitled: "An Act relating to intrastate long distance tele-
 7 phone competition; permitting deregulation of a class
 8 of utilities or a utility service by the Alaska
 9 Public Utilities Commission; and providing for an
 10 effective date."

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

12 * Section 1. INTENT. (a) This Act is substantially similar to both
 13 initiatives that have been filed with the lieutenant governor concerning
 14 competition in long distance telephone service in the state, thereby re-
 15 quiring removal of the initiatives from the general election ballot under
 16 art. XI, sec. 4, of the Constitution of the State of Alaska. The legisla-
 17 ture intends this Act to be a comprehensive treatment of the issue of
 18 competition in intrastate long distance telephone service and to provide
 19 for competition in a responsible and timely manner.

20 (b) The legislature does not intend the enactment of AS 42.05.850,
 21 enacted by sec. 2 of this Act, to affect pending litigation regarding the
 22 applicability of AS 44.62.310 - 44.62.312 to an association of exchange
 23 carriers required by the commission.

24 * Sec. 2. AS 42.05 is amended by adding new sections to read:

25 ARTICLE 11. COMPETITIVE INTRASTATE LONG DISTANCE
 26 TELEPHONE SERVICE.

27 Sec. 42.05.800. FINDINGS. The legislature finds that

28 (1) modern, affordable, efficient, and universally avail-
 29 able local and long distance telephone service is essential to the

1 people of the state;

2 (2) facilities based, long distance telephone service
3 should be provided competitively wherever possible;

4 (3) technological advances, reduced costs, and increased
5 consumer choices for long distance telephone service, resulting from
6 the adoption of an appropriate competitive market structure, will
7 enhance the state's economic development;

8 (4) the benefits of competition in long distance telephone
9 service should be shared by consumers throughout the state;

10 (5) the commission should oversee competition in long
11 distance telephone service to ensure that the competition is fair to
12 consumers and competitors;

13 (6) the commission should provide for competition in a
14 timely manner and should adopt regulations that eliminate inappropri-
15 ate impediments to entry for long distance carriers fit, willing, and
16 able to provide service.

17 Sec. 42.05.810. COMPETITION. (a) By February 14, 1991, the
18 commission shall adopt regulations that authorize and establish con-
19 ditions governing competition in long distance telephone service.

20 (b) Beginning February 15, 1991, the commission shall accept
21 applications to provide competitive long distance telephone service
22 and shall approve or reject applications within 90 days after the
23 filing of a complete application. The commission shall approve an
24 application upon a finding that the applicant is fit, willing, and
25 able. The authority granted to a fit, willing, and able applicant
26 shall include the authority to provide intrastate long distance tele-
27 phone service using any facilities that the applicant owned and oper-
28 ated on May 1, 1990, to provide interstate long distance message
29 telephone service to the public.

1 (c) Except as provided in (b) of this section, the commission
2 may prohibit installation of facilities for origination or termination
3 of long distance service in a given location only if it determines
4 that installation of the facilities in that location is not in the
5 public interest.

6 Sec. 42.05.820. NO MUNICIPAL REGULATION. A long distance tele-
7 phone company that is exempted in whole or in part from complying with
8 all or a portion of this chapter may not be regulated by a municipal-
9 ity under AS 29.35.060 and 29.35.070.

10 Sec. 42.05.830. EXCHANGE ACCESS CHARGES. In providing for
11 competition under AS 42.05.800 - 42.05.995, the commission shall
12 establish a system of access charges to be paid by long distance
13 carriers to compensate local exchange carriers for the cost of orig-
14 inating and terminating long distance services.

15 Sec. 42.05.840. UNIVERSAL SERVICE FUND. The commission may
16 establish a universal service fund or other mechanism to be used to
17 ensure the provision of long distance telephone service at reasonable
18 rates throughout the state and to otherwise preserve universal ser-
19 vice.

20 Sec. 42.05.850. EXCHANGE CARRIER ASSOCIATION. The commission
21 may require the local exchange carriers to form an association to
22 assist in administering the system of access charges and may require
23 the association to file tariffs and to engage in pooling of exchange
24 access costs and revenue if necessary to achieve the purposes of
25 AS 42.05.800 - 42.05.995.

26 Sec. 42.05.860. RESTRICTIONS ON RESALE OF TELECOMMUNICATIONS
27 SERVICES PROHIBITED. A telephone company may not prohibit or restrict
28 the resale of telecommunications service. If an interexchange tele-
29 communications service is resold, the reseller shall receive credit in

1 an appropriate amount for an applicable exchange access charge if the
2 credit is necessary to prevent double payment of the access charges.

3 Sec. 42.05.995. DEFINITIONS. In AS 42.05.800 - 42.05.995,

4 (1) "local exchange carrier" means any carrier certificated
5 to provide local telephone services;

6 (2) "long distance carrier" or "long distance telephone
7 company" means any carrier certificated to provide long distance tele-
8 phone services;

9 (3) "long distance telephone service" or "long distance
10 service" means intrastate, interexchange telephone service.

11 * Sec. 3. AS 29.35.070(a) is amended to read:

12 (a) The assembly acting for the area outside all cities in the
13 borough and the council acting for the area in a city may regulate,
14 fix, establish, and change the rates and charges imposed for a utility
15 service provided to the municipality or its inhabitants by a utility
16 that is not subject to regulation under AS 42.05 unless that utility
17 is exempted from regulation under AS 42.05.711(a) or (d) - (k) or is
18 exempted under regulations adopted under AS 42.05.810 from complying
19 with all or part of AS 42.05.010 - 42.05.721.

20 * Sec. 4. AS 29.35.070(a) is repealed and reenacted to read:

21 (a) The assembly acting for the area outside all cities in the
22 borough and the council acting for the area in a city may regulate,
23 fix, establish, and change the rates and charges imposed for a utility
24 service provided to the municipality or its inhabitants by a utility
25 that is not subject to regulation under AS 42.05 unless that utility
26 is exempted from regulation under AS 42.05.711(a) or (d) - (k).

27 * Sec. 5. AS 42.05.711(d) is repealed and reenacted to read:

28 (d) The commission may exempt a utility, a class of utilities,
29 or a utility service from all or a portion of this chapter if the

1 commission finds that the exemption is in the public interest.

2 * Sec. 6. AS 45.50.572(d) is amended to read:

3 (d) AS 45.50.562 - 45.50.596 apply to long distance telecommu-
4 nications services provided by public utilities. AS 45.50.562 -
5 45.50.596 do not apply to other services provided by public utilities
6 that [WHICH] have been issued a certificate of public convenience and
7 necessity under AS 42.05.

8 * Sec. 7. AS 45.50.572(d) is repealed and reenacted to read:

9 (d) AS 45.50.562 - 45.50.596 do not apply to public utilities
10 that have been issued a certificate of public convenience and neces-
11 sity under AS 42.05.

12 * Sec. 8. AS 42.05.800, 42.05.810, 42.05.820, 42.05.830, 42.05.840,
13 42.05.850, 42.05.860, and 42.05.995 are repealed.

14 * Sec. 9. LEGISLATIVE INTENT FOR SECTIONS 10 - 12. The legislature
15 intends that if, by administrative or judicial order, this Act is deter-
16 mined on or before September 4, 1990, to be substantially similar to only
17 one of the initiatives, 89-ALAS or 89-TELE, or to neither of those initia-
18 tives, the provisions in this Act providing for competition in the pro-
19 vision of long distance telephone service shall be repealed, so that both
20 initiatives shall appear on the ballot for the voters to consider.

21 * Sec. 10. NOTIFICATION. The lieutenant governor shall notify the
22 revisor of statutes immediately after September 4, 1990, of the determina-
23 tions taken concerning the initiatives, and of the existence and status of
24 litigation concerning the placement of the initiatives on the ballot.

25 * Sec. 11. Sections 1 - 3, 5, 6, 9, and 10 of this Act take effect
26 immediately under AS 01.10.070(c).

27 * Sec. 12. Sections 4, 7, and 8 of this Act take effect November 4,
28 1990, only if on September 4, 1990, there is a judicial or administrative
29 determination in force under art. XI, sec. 4 of the Constitution of the

1 State of Alaska that this Act is substantially similar to (1) one, but not
2 to both, of the initiatives on file with the lieutenant governor relating
3 to competition in long distance telephone service, Initiative 89-ALAS and
4 Initiative 89-TELE, or (2) neither of those initiatives. For purposes of
5 this section, a "determination in force" includes either an administrative
6 decision that is not subject to judicial appeal, a final judicial resolu-
7 tion, or an interim judicial order under which the lieutenant governor is
8 directed to print the general election ballots in accordance with a ruling
9 that this Act is substantially similar to only one of the initiatives or to
10 neither of the initiatives.

SB

214

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 214

SPONSOR Halford

BILL TITLE special appropriation to permanent fund

DATE REFERRED 3-10-89

HEARING SCHEDULED 4-21-89

FISCAL NOTE PREPARED NOT NEEDED

SPONSOR CONTACTED Theresa 4958

INTERESTED PARTIES CONTACTED

✓ Mary Halloran, OMB 3508

✓ Jim Kelly, PF 2047

OTHER

S214POOP.TXT
4/21/89

SB 214 SPECIAL APPROPRIATION TO THE PRINCIPAL OF THE PERMANENT
FUND

TO TESTIFY

SEN. HALFORD, SPONSOR (THERESA)

MARY HALLORAN, O.M.B.

NOTIFIED JIM KELLY, PERMANENT FUND CORP.

F.Y.I.

APPROPRIATES EARNINGS RESERVE (\$604 MILLION) TO PRINCIPAL -- NO
EFFECTIVE DATE.

RATIONALE, STATED IN BILL FINDINGS, IS BECAUSE 1990-1996 EARNINGS
WILL BE INADEQUATE TO INFLATION-PROOF THE FUND.

HALFORD INCLUDED IN PACKET RESULTS OF STATEWIDE BUDGET WORKSHOPS:

SPEND EARNINGS RESERVE	39% YES, 58% NO
ELIMINATE INFLATION PROOFING	13% YES, 83% NO

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 4-13-89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 4-22-89

3/10/89
Mr. President:

SA _____ Committee considered SB 214 _____

special appropriation to the principal of the permanent fund

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- _____ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) attached zero fiscal impact
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Jan Fair

Al Adams - no Rec

Bob Bennett no rec

Chairman signature and recommendation

Committee backup attached



1

Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS (in millions)

as of February 28, 1989

PRINCIPAL

INCOME

FY	PRINCIPAL						INCOME					Reserves		
	FY Begin Balance	Appropriations	Dedicated State Revenues*	Inflation Proofing	FY End Balance	Inflation Proofing Shortfall	Net Income	Dividends	Per Capita Dividends**	Inflation Proofing	General Fund	Add (Delete)	FY End Balance	FY
78			54		54		2				1			78
79	54		84		139		8				7			79
80	139		344		483		32	12			12			80
81	483	900	385		1,769		150	28			28	59	59	81
82	1,769	800	401		2,969		368	71	\$1,000.00		71	185	244	82
83	2,969	400	421	231	4,021		471	108	\$386.15	231	110	110	354	83
84	4,021	300	366	151	4,838		530	175	\$331.29	151		203	557	84
85	4,838	300	368	235	5,741		658	217	\$404.00	235		206	763	85
86	5,741		323	216	6,281		1,021	303	\$556.26	216		501	1,264	86
87	6,281	1,264	171	148	7,864		1,069	391	\$708.19	148		529	529	87
88	7,864		418	303	8,585		789	424	\$826.93	303		62	591	88
89	8,585		184	358	9,127		829	458	\$837.42	358		13	604	89
90	9,127		190	466	9,783		819	476	\$861.10	466		(123)	481	90
91	9,783		83	592	10,457		971	472	\$844.58	592		(92)	389	91
92	10,457		89	633	11,179		1,026	468	\$829.90	633		(75)	315	92
93	11,179		88	676	11,942		1,087	497	\$873.55	676		(86)	229	93
94	11,942		85	722	12,749		1,151	531	\$925.08	722		(101)	128	94
95	12,749		81	770	13,600		1,217	573	\$990.14	770		(125)	2	95
96	13,600		77	682	14,359	138	1,286	606	\$1,033.15	682		(2)		96
97	14,359		74	716	15,150	150	1,357	640	\$1,088.12	716				97
98	15,150		69	755	15,974	159	1,431	676	\$1,139.46	755				98
99	15,974		65	795	16,834	168	1,509	714	\$1,192.10	795				99
0	16,834		62	836	17,732	177	1,589	753	\$1,246.38	836				0
1	17,732		58	880	18,670	187	1,674	794	\$1,302.22	880				1
2	18,670		55	926	19,651	198	1,762	836	\$1,360.04	926				2
3	19,651		51	974	20,676	209	1,854	881	\$1,419.60	974				3
4	20,676		47	1,024	21,746	220	1,951	927	\$1,479.95	1,024				4
5	21,746		43	1,076	22,865	232	2,051	976	\$1,543.92	1,076				5

Cumulative Totals:	3,964		4,737	14,163	22,865	1,836	28,662	13,006	\$23,184.55	14,163	229			

ASSUMPTIONS: 4.08% Inflation Rate FY 89
9.12% Rate of Return FY 89

5.00% Inflation Rate FY 90
8.00% Rate of Return FY 90

* SOURCE: Alaska Department of Revenue
Low Case Forecast - November 1988
With Consensus Revenue Estimates for FY 89-90

3/1/89
STATUS QUO INCLUDING BUDGET SUMMIT
CONSENSUS REVENUE ESTIMATES FOR FY 89-90

6.00% Inflation Rate FY 91-05
9.00% Rate of Return FY 91-05

** SOURCE: Population Projections From
Revenue Low Case Forecast - November 1988

Statewide Results

Number Surveys Mailed:	248,821				
Number of Responses:	6,541				
Percentage Responding:	3%				
Number of Communities Responding:	150				
<i>Would you favor reductions in the following areas?</i>					
State Government Programs	Yes	No	No Opn	% Yes	% No
Education	2,784	3,493	197	43%	54%
Justice and Public Protection	2,538	3,771	231	39%	58%
Health and Social Services	3,172	3,155	213	— 49%	48%
Transportation	3,455	2,846	239	— 53%	44%
University of Alaska	3,512	2,824	204	— 54%	43%
Natural Resources	3,346	2,942	252	— 51%	45%
Environmental Protection	2,631	3,698	211	40%	57%
Business Development	3,711	2,599	230	— 57%	40%
Revenue	2,494	3,766	280	38%	58%
Individuals & Local Governments	Yes	No	No Opn	% Yes	% No
Public Schools	2,840	3,740	230	42%	55%
Aid to Local Governments	4,185	2,134	221	— 64%	33%
Public and Medical Assistance	3,075	3,235	230	47%	49%
Senior Programs	3,145	3,185	212	48%	49%
Power Cost Equalization	4,420	1,878	242	— 68%	29%
Loan Programs	3,997	2,327	216	— 61%	36%
<i>Would you favor increasing revenues in the following ways?</i>					
Taxes & User Fees	Yes	No	No Opn	% Yes	% No
Personal Income Tax	2,199	4,202	139	34%	64%
Severance Tax ELF	3,654	2,627	259	56%	40%
Statewide Sales Tax	2,232	4,135	173	34%	63%
Fish Landing Tax	3,633	2,573	334	56%	39%
Gasoline Tax	2,891	3,471	175	44%	53%
Alcohol and Cigarette Tax	5,253	1,198	81	80%	18%
Statewide School Tax	3,088	3,231	209	47%	49%
User Fees	3,186	3,131	222	49%	48%
Reallocate Cash & Reserves	Yes	No	No Opn	% Yes	%No
Railbe't Energy Fund	3,587	2,607	346	55%	40%
Permanent Fund Reserves	2,571	3,796	173	39%	58%
Eliminate PF Dividends	1,004	5,410	126	15%	83%
Cap PF Dividends	2,036	4,356	148	31%	67%
Eliminate PF Inflation Proofing	833	5,425	282	13%	83%

Southcentral Results

<i>Would you favor reductions in the following areas?</i>					
State Government Programs	% Yes	% No	Yes	No	No Opn
Education	48%	50%	1,773	1,839	93
Justice and Public Protection	42%	55%	1,545	2,061	114
Health and Social Services	52%	45%	1,944	1,672	104
Transportation	55%	41%	2,057	1,534	129
University of Alaska	57%	40%	2,137	1,478	105
Natural Resources	54%	43%	2,009	1,579	116
Environmental Protection	42%	55%	1,568	2,045	107
Business Development	57%	40%	2,109	1,486	125
Revenue	41%	56%	1511	2067	142
Individuals & Local Governments	% Yes	% No	Yes	No	No Opn
Public Schools	47%	49%	1,762	1,835	123
Aid to Local Governments	67%	30%	2,486	1,119	115
Public and Medical Assistance	50%	47%	1,849	1,749	122
Senior Programs	50%	48%	1,843	1,767	110
Power Cost Equalization	73%	23%	2,722	873	125
Loan Programs	64%	34%	2,365	1,247	108
<i>Would you favor increasing revenues in the following ways?</i>					
Taxes & User Fees	% Yes	% No	Yes	No	No Opn
Personal Income Tax	27%	71%	1,012	2,645	63
Severance Tax ELF	47%	50%	1,747	1,844	129
Statewide Sales Tax	32%	66%	1,198	2,444	78
Fish Landing Tax	56%	39%	2,095	1,463	162
Gasoline Tax	43%	55%	1,586	2,051	80
Alcohol and Cigarette Tax	80%	19%	2,977	710	30
Statewide School Tax	44%	54%	1,625	1,990	99
User Fees	47%	50%	1,748	852	119
Reallocate Cash & Reserves	% Yes	% No	Yes	No	No Opn
Railbelt Energy Fund	53%	42%	1,950	1,574	156
Permanent Fund Reserves	39%	59%	1,444	2,198	78
Eliminate PF Dividends	14%	84%	538	3,128	54
Cap PF Dividends	29%	69%	1,076	2,583	61
Eliminate PF Inflation Proofing	13%	83%	487	3,084	149

Interior Results

<i>Would you favor reductions in the following areas?</i>					
State Government Programs	% Yes	% No	Yes	No	No Opn
Education	39%	59%	382	577	27
Justice and Public Protection	37%	59%	385	608	34
Health and Social Services	47%	50%	482	509	36
Transportation	52%	44%	538	455	34
University of Alaska	44%	54%	450	550	27
Natural Resources	49%	47%	502	482	43
Environmental Protection	41%	56%	422	574	31
Business Development	60%	37%	617	376	34
Revenue	38%	58%	390	593	44
Individuals & Local Governments	% Yes	% No	Yes	No	No Opn
Public Schools	38%	59%	390	601	36
Aid to Local Governments	61%	35%	627	364	36
Public and Medical Assistance	47%	50%	478	518	31
Senior Programs	42%	54%	430	555	42
Power Cost Equalization	66%	31%	674	318	35
Loan Programs	61%	36%	622	373	32
<i>Would you favor increasing revenues in the following ways?</i>					
Taxes & User Fees	% Yes	% No	Yes	No	No Opn
Personal Income Tax	42%	56%	427	572	28
Severance Tax ELF	70%	26%	724	270	33
Statewide Sales Tax	34%	63%	348	648	31
Fish Landing Tax	56%	37%	571	385	71
Gasoline Tax	45%	51%	463	522	42
Alcohol and Cigarette Tax	79%	20%	805	202	18
Statewide School Tax	53%	43%	541	445	40
User Fees	48%	49%	488	505	34
Reallocate Cash & Reserves	% Yes	% No	Yes	No	No Opn
Railbelt Energy Fund	45%	50%	459	515	53
Permanent Fund Reserves	36%	60%	374	619	34
Eliminate PF Dividends	16%	82%	168	838	21
Cap PF Dividends	30%	67%	311	691	25
Eliminate PF Inflation Proofing	12%	84%	125	866	36

Southeast Results

<i>Would you favor reductions in the following areas?</i>					
State Government Programs	% Yes	% No	Yes	No	No Opn
Education	36%	59%	399	650	49
Justice and Public Protection	34%	61%	379	669	53
Health and Social Services	42%	54%	459	597	45
Transportation	44%	51%	481	567	53
University of Alaska	53%	43%	582	472	47
Natural Resources	45%	50%	493	548	60
Environmental Protection	35%	61%	390	667	44
Business Development	55%	41%	611	447	43
Revenue	32%	62%	354	688	59
Individuals & Local Governments	% Yes	% No	Yes	No	No Opn
Public Schools	39%	57%	426	629	46
Aid to Local Governments	61%	35%	671	387	43
Public and Medical Assistance	39%	57%	430	627	44
Senior Programs	49%	48%	540	525	36
Power Cost Equalization	58%	37%	637	407	57
Loan Programs	55%	40%	610	440	51
<i>Would you favor increasing revenues in the following ways?</i>					
Taxes & User Fees	% Yes	% No	Yes	No	No Opn
Personal Income Tax	43%	54%	475	596	30
Severance Tax ELF	62%	27%	749	296	56
Statewide Sales Tax	39%	58%	429	639	33
Fish Landing Tax	52%	43%	574	469	58
Gasoline Tax	47%	51%	516	560	25
Alcohol and Cigarette Tax	82%	17%	898	184	16
Statewide School Tax	52%	44%	574	485	38
User Fees	53%	44%	582	483	36
Reallocate Cash & Reserves	% Yes	% No	Yes	No	No Opn
Railbelt Energy Fund	67%	25%	734	279	88
Permanent Fund Reserves	42%	54%	466	600	35
Eliminate PF Dividends	18%	79%	197	867	37
Cap PF Dividends	38%	58%	422	638	41
Eliminate PF Inflation Proofing	12%	82%	131	903	67

Northern Results

<i>Would you favor reductions in the following areas?</i>					
State Government Programs	% Yes	% No	Yes	No	No Opn
Education	44%	56%	4	5	0
Justice and Public Protection	22%	78%	2	7	0
Health and Social Services	33%	67%	3	6	0
Transportation	78%	22%	7	2	0
University of Alaska	33%	67%	3	6	0
Natural Resources	44%	56%	4	5	0
Environmental Protection	11%	89%	1	8	0
Business Development	78%	22%	7	2	0
Revenue	33%	67%	3	6	0
Individuals & Local Governments	% Yes	% No	Yes	No	No Opn
Public Schools	44%	56%	4	5	0
Aid to Local Governments	56%	44%	5	4	0
Public and Medical Assistance	44%	56%	4	5	0
Senior Programs	56%	44%	5	4	0
Power Cost Equalization	33%	67%	3	6	0
Loan Programs	44%	56%	4	5	0
<i>Would you favor increasing revenues in the following ways?</i>					
Taxes & User Fees	% Yes	% No	Yes	No	No Opn
Personal Income Tax	11%	89%	1	8	0
Severance Tax ELF	67%	33%	6	3	0
Statewide Sales Tax	44%	56%	4	5	0
Fish Landing Tax	56%	44%	5	4	0
Gasoline Tax	33%	67%	3	6	0
Alcohol and Cigarette Tax	78%	22%	7	2	0
Statewide School Tax	44%	56%	4	5	0
User Fees	78%	22%	7	2	0
Reallocate Cash & Reserves	% Yes	% No	Yes	No	No Opn
Railbelt Energy Fund	67%	22%	6	2	1
Permanent Fund Reserves	44%	56%	4	5	0
Eliminate PF Dividends	22%	78%	2	7	0
Cap PF Dividends	33%	67%	3	6	0
Eliminate PF Inflation Proofing	22%	78%	2	7	0

Northwest Results

<i>Would you favor reductions in the following areas?</i>					
State Government Programs	% Yes	% No	Yes	No	No Opn
Education	23%	66%	15	43	7
Justice and Public Protection	34%	54%	22	35	8
Health and Social Services	45%	45%	29	29	7
Transportation	54%	35%	35	23	7
University of Alaska	42%	48%	27	31	7
Natural Resources	48%	42%	31	27	7
Environmental Protection	34%	55%	22	36	7
Business Development	49%	40%	32	26	7
Revenue	28%	60%	18	39	8
Individuals & Local Governments	% Yes	% No	Yes	No	No Opn
Public Schools	26%	65%	17	42	6
Aid to Local Governments	52%	38%	34	25	6
Public and Medical Assistance	37%	54%	24	35	6
Senior Programs	42%	49%	27	32	6
Power Cost Equalization	38%	52%	25	34	6
Loan Programs	48%	43%	31	28	6
<i>Would you favor increasing revenues in the following ways?</i>					
Taxes & User Fees	% Yes	% No	Yes	No	No Opn
Personal Income Tax	60%	35%	39	23	3
Severance Tax ELF	66%	26%	43	17	5
Statewide Sales Tax	38%	52%	25	34	6
Fish Landing Tax	65%	25%	42	16	7
Gasoline Tax	52%	40%	34	26	5
Alcohol and Cigarette Tax	85%	8%	55	5	5
Statewide School Tax	57%	29%	37	19	9
User Fees	43%	46%	28	30	7
Reallocate Cash & Reserves	% Yes	% No	Yes	No	No Opn
Railbelt Energy Fund	65%	29%	42	19	4
Permanent Fund Reserves	37%	54%	24	35	6
Eliminate PF Dividends	14%	83%	9	54	2
Cap PF Dividends	28%	66%	18	43	4
Eliminate PF Inflation Proofing	15%	75%	10	49	6

Southwest Results

<i>Would you favor reductions in the following areas?</i>					
State Government Programs	% Yes	% No	Yes	No	No Opn
Education	28%	69%	31	77	3
Justice and Public Protection	37%	61%	41	68	2
Health and Social Services	31%	68%	34	75	2
Transportation	61%	36%	68	40	3
University of Alaska	50%	48%	55	53	3
Natural Resources	47%	50%	52	55	4
Environmental Protection	25%	72%	28	80	3
Business Development	44%	51%	49	57	5
Revenue	33%	59%	37	65	9
Individuals & Local Governments	% Yes	% No	Yes	No	No Opn
Public Schools	39%	59%	43	65	3
Aid to Local Governments	54%	42%	60	47	4
Public and Medical Assistance	45%	50%	50	55	6
Senior Programs	38%	60%	42	67	2
Power Cost Equalization	36%	60%	40	67	4
Loan Programs	53%	43%	59	48	4
<i>Would you favor increasing revenues in the following ways?</i>					
Taxes & User Fees	% Yes	% No	Yes	No	No Opn
Personal Income Tax	49%	50%	54	55	2
Severance Tax ELF	73%	22%	81	24	6
Statewide Sales Tax	41%	54%	45	60	6
Fish Landing Tax	57%	37%	63	41	7
Gasoline Tax	50%	48%	55	53	3
Alcohol and Cigarette Tax	89%	10%	99	11	1
Statewide School Tax	58%	39%	64	43	4
User Fees	56%	41%	62	45	4
Reallocate Cash & Reserves	% Yes	% No	Yes	No	No Opn
Railbelt Energy Fund	62%	31%	69	34	8
Permanent Fund Reserves	41%	57%	45	63	3
Eliminate PF Dividends	14%	85%	15	94	2
Cap PF Dividends	34%	63%	38	70	3
Eliminate PF Inflation Proofing	14%	82%	15	91	5

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman

Sen. Al Adams

Sen. Tim Kelly

Sen. Rick Cahling



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

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members

FROM: Senator Pat Pourchot, Chairman

RE: April 21 Committee Hearing

DATE: April 21, 1989

On Friday, April 21 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SJR 18, Proposing an amendment to the Constitution of the State of Alaska relating to income from the permanent fund

SJR 18 would amend the Constitution to specify that income of the permanent fund may be appropriated only for dividends, to the fund principal, for administrative costs of the fund, and for other purposes that a majority of the legislature and the voters approve.

A draft committee substitute that makes the following changes has been prepared:

- 1) Provides for a 2/3, rather than a 3/4, majority vote by the legislature.
- 2) Requires that the public renew its approval of SJR 18 every six years.

SB 214, An Act making a special appropriation to the principal of the permanent fund

SB 214 would appropriate the balance in the earnings reserve account of the permanent fund to the principal of the fund. The current balance is approximately \$604 million.

IN ADDITION, THE FOLLOWING BILLS WILL BE BACK BEFORE THE COMMITTEE:

SB 146, An Act allowing gaming devices on ferries

SB 146 would authorize the installation and use of video gaming devices on state ferries, with revenues from the games being appropriated to fund the operation of the ferry system. It is my intent to move this bill from committee on Friday.

SB 168, An Act authorizing gambling enterprises in municipalities

SB 168 would allow certain municipalities, by adoption of an ordinance, to operate a gambling enterprise. To be eligible, a municipality must have a substantial history of gambling and be substantially dependent on tourism. The bill would allow similar gambling operations on the state ferry system.

A draft committee substitute which makes the following changes is being prepared at the sponsor's request:

- 1) Eliminates the provisions regarding the ferry system.
- 2) Transfers the responsibility for state oversight of the municipal operations from the Department of Revenue to the Department of Commerce. This is consistent with Executive Order 74, which transferred games of chance and contests of skill.
- 3) Provides for a share of the gambling proceeds to be used for prevention programs, as well as for treatment and counseling of compulsive gamblers.

It is my intent to move this bill out of committee today.

HB 91, An Act relating to protection for certain public employees and certain other persons who report or participate in a proceeding connected with a matter of public concern

HB 91, the "whistleblower bill", would prohibit public employers from discharging, threatening, or otherwise discriminating against employees simply because they disclose information of public concern before a public body.

A draft committee substitute which makes the following changes is being prepared:

- 1) Exempts the Alaska Railroad. Current statute provides that employees of the railroad are not employees of the state.
- 2) Exempts municipalities that, by ordinance, adopt substantially similar protections. This exemption is

Committee Memo
April 21, 1989
Page 3

consistent with the resolution passed by the Anchorage Municipal Assembly.

A zero fiscal note prepared by the Court System is attached. It is my intent to move this bill out of committee today.

HB 138, An Act establishing a state employee incentive award system

HB 138 would establish a monetary incentive program to encourage employees to improve state operations. A draft committee substitute that makes the following changes is attached:

- 1) Requires an annual report to the Legislature detailing who received awards, the basis for each award, and the amount of the award.
- 2) Prohibits commissioners, deputy commissioners, assistant commissioners, directors, and deputy directors from receiving awards.

It is my intent to move this bill out of committee today.

stock of a corporation. Do-
e company stocks, must be
nange registered with the

nd may not be used for the
hich any regular interest
ars before purchase, except
n outstanding for less than

time to time as necessary
e assets of the corporation.
elines shall be reported to
e for review and comment.
he corporation in in-state
ents are available if the in-

d comparable to alternate

e investments in (g) of this

ident instruments that are
in a secondary market at
by a pledge as collateral of
manent fund under (g)(1),
y a pledge as collateral of
s of the state that are rated
e and have a demonstrated
obligations have value at
cate of deposit. The board
order to ensure continued
this subsection. (§ 5 ch 18
; am § 1 ch 83 SLA 1986)

ent in the first sentence of sub-
m) substituted "that" for "which"
; "equivalent instruments" and
the language beginning "or by a
and ending "secondary market"
obligations" following "which in-
ts."

Sec. 37.13.130. Gains and losses. [Repealed, § 13 ch 81 SLA 1982.]

Sec. 37.13.140. Income. Net income of the corporation shall be computed annually as of the last day of the fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. Income available for distribution equals 21 percent of the net income of the corporation for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the corporation for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145. (§ 5 ch 18 SLA 1980; am § 8 ch 81 SLA 1982; am § 1 ch 28 SLA 1986)

Effect of amendments. — The 1986 amendment in the first sentence substituted "shall" for "must" and in the second sentence substituted "21 percent of the

net income" for "the average net income" and "earnings reserve" for "undistributed income."

Sec. 37.13.145. Disposition of income. At the end of each fiscal year, an amount sufficient to offset the effect of inflation on principal of the Alaska permanent fund during that year, as measured by the change in the calendar year average United States consumer price index for all urban consumers shall be transferred from net income as defined in AS 37.13.140, excluding income on the earnings reserve account in the Alaska permanent fund, to the principal of the Alaska permanent fund for reinvestment. The balance of the income available for distribution under AS 37.13.140 shall be transferred to the earnings reserve account in the Alaska permanent fund. Money in the earnings reserve account shall be invested in investments authorized under AS 37.13.120. Income from the investment of the earnings reserve account shall be treated as an addition to that account. (§ 9 ch 81 SLA 1982; am § 2 ch 28 SLA 1986)

Cross references. — For transfer of certain income earned by the Alaska permanent fund prior to July 1, 1982, to the undistributed income account, see § 15, ch. 81, SLA 1982.

Effect of amendments. — The 1986 amendment in the first sentence substituted "the change in the calendar year av-

erage United States consumer price index for all urban consumers" for "a nationally recognized index," in the second sentence substituted "income available for distribution under" for "net income as defined in," and substituted "earnings reserve" for "undistributed income" throughout the section.

Sec. 37.13.150. Corporation budget. The revenue generated by the corporation's investments must be identified as the source of the operating budget of the corporation in the state's operating budget under AS 37.07 (Executive Budget Act). The unexpended balance of the corporation's annual operating budget does not lapse at the end of the fiscal year but shall be treated as income under AS 37.13.140. (§ 5 ch 18 SLA 1980; am § 10 ch 81 SLA 1982)

ALASKA STATE LEGISLATURE

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While in Juneau:
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Senator Rick Halford

MEMORANDUM

To: Senator Pat Pourchot, Chairman
Senate State Affairs Committee

From: Senator Rick Halford *Rick*

Date: March 31, 1989

I would appreciate a hearing on Senate Bill 214 at your earliest convenience.

Senate Bill 214 is a straightforward bill that appropriates the unexpended and unobligated balance of the Earnings Reserve Account into the principal of the Permanent Fund.

The Permanent Fund Corporation's financial projections as of January 31, 1989, indicates that earnings of the reserve account will be needed to adequately inflation-proof the Fund beginning in FY 90. I introduced SB 214 in order to maintain the protection of the principal of the Permanent Fund and to ensure that the dividend program remains secure. I believe this legislation is in the best interest of the people of the State of Alaska.

Thank you for your attention to this matter.

1 IN THE SENATE

BY HALFORD, JONES,
FAIKS AND KERTTULA

2

SENATE BILL NO. 214

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act making a special appropriation to the princi-
7 pal of the permanent fund."

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

9 * Section 1. FINDINGS. The Alaska Permanent Fund Corporation has
10 projected that there will be a shortfall in the earnings of the permanent
11 fund in fiscal years 1990 - 1996 that will require additional investment to
12 adequately inflation-proof the fund, as required by AS 37.13.145.

13 * Sec. 2. The unexpended and unobligated balance in the earnings re-
14 serve account (AS 37.13.145) is appropriated to the principal of the perma-
15 nent fund.

as of 4/19/89

\$604,000,000

S B

215

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



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

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senator Tim Kelly
Senate President

FROM: Senator Pat Pourchot, Chairman
Senate State Affairs Committee *Pat*

RE: Committee Referral of SB 215

DATE: March 15, 1989

I would like to call to your attention the committee referrals on SB 215, relating to credit under the public employees' retirement system for employees of the Alaska State Development Corporation.

SB 215 has been referred to the Health, Education and Social Services Committee and the Finance Committee. Under Uniform Rule 20, the State Affairs Committee has jurisdiction over programs of the Department of Administration, which include the public employees' retirement system. I would note that several other retirement bills have been referred to the State Affairs Committee (SB 73, SB 197, SB 216).

I would appreciate your review of the referrals on SB 215, and would be happy to discuss this with you further at your convenience.

S B

216

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 216

SPONSOR Duncan - Mike Young 4766

BILL TITLE PERS credit for National Guard service

DATE REFERRED 3-13-89

HEARING SCHEDULED

1-8-90 RECURRING
" Hold off for a while
sent to finance "

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

John Boyle: (H) 274-3956 (W) 274-1433 1535 Airport Heights Dr.
99508

John Boyle
274 3956

OTHER

Alaska State Legislature



SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR —
HEALTH EDUCATION
& SOCIAL SERVICES
BUDGET & AUDIT
BANKING &
ECONOMIC
DEVELOPMENT

MEMORANDUM

Date: April 3, 1989

To: Senator Pat Pourchot, Chair
Senate State Affairs Committee

From: Senator Jim Duncan

Subject: Requesting a hearing for Senate Bill 216

Please find attached information concerning Senate Bill 216, "An Act Relating to Credit Under the Public Employees Retirement System for National Guard Service."

Please schedule a hearing for this bill at your earliest convenience. You may contact Mike Young of my staff for any further information or assistance.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: An Act relating to credit BRU: Retirement and Benefits
under the PERS for national guard
 Sponsor: Duncan Components: Retirement and Benefits
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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
LAND & 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: (Attach a separate page if necessary)

Passage of this bill will have a very small financial impact on the PERS retirement fund. The affect on the funding ratio and the unfunded liability would be negligible.

Prepared by: Sally Smith *Sally Smith* Phone: 465-4470
 Division: Retirement and Benefits Date: 01/11/90
 Approved by Commissioner: Frank S. Baxter *Frank S. Baxter* Date: 1/23/90
 Agency: Department of Administration

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

S B

222

SENATE COMMITTEE REPORT

DATE: 2/23/90

FURTHER: Finance

DATE TURNED INTO OFFICE: _____

State Affairs _____ Committee considered _____ SB 222

Smoking in certain vehicles and indoor places

and recommended:

- replace with _____ CS SB 222 (SA) same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Tom Kelly

[Signature]

Al Adams - No Rec

[Signature]

_____ Chair: Signature and Recommendation

Alaska State Legislature



Senate Judiciary Committee

February 6, 1990

MEMORANDUM

TO: Senator Paul Fischer, -Chairman
Senate Health, Education and Social Services Committee

FROM: Senator Jan Faiks

SUBJECT: Senate Bill 222 -- Smoking in Public Places

Senate Bill 222 is currently pending in your committee. I would appreciate your scheduling it for the committee's consideration at your earliest convenience.

Attached is a previously prepared background memo on the bill. Should you need any additional information, please let me know.

Thank you.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 17, 1990

SUBJECT: Regulation of Smoking
(CSSB 222(State Affairs))

TO: Senator Pat Pourchot
Chair, State Affairs Committee

FROM: Terri Lauterbach *TL*
Legislative Counsel

Enclosed is a draft version of CSSB 222(State Affairs). It is in draft form pending your approval of certain changes in the bill that were not explicitly adopted by the committee.

One change involves the collective bargaining language on page 3, lines 2 - 6.

The other changes involve implementation of the intent behind eliminating the repealer that was in the HESS version. My understanding is that by eliminating the repealer you intended to restore to the house and senate the ability to regulate smoking in areas under their jurisdiction. Therefore, I have made changes to effectuate that intent; just deleting the repealer was insufficient to give you the desired result. The changes I made appear on page 1, lines 28 - 29, and on page 3, line 7. The first change places house and senate areas under the statute that prohibits smoking except where smoking signs are erected. The second change ("except as provided in AS 18.35.300(5)") makes an exception to the prohibition section relating to public areas so that smoking can be regulated by the house and senate in areas under their control.

Please let me know if I can be of further assistance.

TL:pl
WKP3/050

Enclosure

amendment #1

by Adams

to CSSB 222 (HESS)

Page 2, at the end of line 28 add:

provisions of ~~collective~~ bargaining agreements ^{signed before the effective date of this act} supercede the prohibition in this paragraph;

A M E N D M E N T #2

by Adams

OFFERED IN THE SENATE

TO: CSSB 222 (HESS)

Page 2, line 6, after "facility":

Insert ", or a public or private office or facility that is engaged primarily in providing mental health services"

Page 3, line 6, after "facility;":

Insert "this paragraph does not apply to a public or private office or facility that is engaged primarily in providing mental health services;"

FISCAL NOTE

REQUEST:

Revision Date: 02-23-90
Title: "An Act relating to smoking in certain vehicles and places"
Sponsor: Faiks
Requestor: _____

Agency Affected: Environmental Conservation
BRU: Environmental Health
Components: Sanitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
----------------	------------	------------	------------	------------	------------	------------

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS : (Attach a separate page if necessary)

The fiscal impact of CSSB 222(HESS) will be zero.

Prepared by: Douglas C. Donegan, Director
Division: Environmental Health

Phone: 465-2609
Date: 02-27-90

Approved by Commissioner: _____
Agency: _____

Date: 2/27/90

Distribution (by preparer):

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

SB 222, Smoking in Certain indoor places and vehicles

TO TESTIFY;

Chris Christenson: on behalf of Senator Faiks
Senator Fahrenkamp

NOTES:

Adams has two amendments to SB 222.

#1: concerns collective bargaining agreements

#2. concerns exempting mental health related facilities

Letter from Alaska Court System: they misinterpreted the bill. Jury deliberation rooms are not under prohibited areas. Chris is ready to clarify. This letter is not in member packets.

Alaska State Legislature

Chairman
(907) 465-4523



Jan Faiks
Post Office Box V
Juneau, Alaska 99811

Senate Judiciary Committee

March 17, 1989

MEMORANDUM

TO: Senator Paul Fischer, Chairman
Senate HESS Committee

FROM: Senator Jan Faiks, Chairman
Senate Judiciary Committee

SUBJECT: SB 222 "An Act relating to smoking in certain
vehicles and indoor places."

Senate Bill 222 has been referred to the Senate HESS Committee for consideration. This bill amends Alaska law relating to smoking in certain public places. It was introduced at the request of the American Lung Association of Alaska, as part of their Tobacco Free Alaska 2000 program.

At the present time, approximately 26% of Americans over the age of 16 smoke cigarettes. Alaskans smoke at a rate 5% greater than the national rate.

According to the Surgeon General, cigarette smoking is the single most important environmental factor contributing to premature mortality in the United States. Each year, smoking causes the deaths of more than 300,000 Americans, principally from heart disease, cancer and chronic obstructive lung disease. In 1985, there were estimated to be 261 smoking attributable deaths in Alaska. This was 14% of the state's mortality that year. The estimated total for medical care due to smoking in Alaska in 1985 was \$52.8 million. This does not take into account lost wages due to illness, or losses to employers because of increased insurance premiums and absenteeism.

The tremendous social harms caused directly or indirectly by cigarette smoking cannot be disputed. In an effort to

Members

Mike Szymanski, Vice-Chairman • Rick Halford • Drue Pearce • Pat Rodey

Out of Session

3111 C Street, Anchorage, Alaska 99503 • (907) 561-7610

encourage people not to smoke, and to protect the health and well being of non-smokers who must breathe secondary smoke, many jurisdictions including Alaska have enacted laws restricting smoking in public places.

At the present time, 42 states and the District of Columbia restrict smoking in some manner in public places. These laws range from simple, limited prohibitions to comprehensive clean indoor air laws that limit or ban smoking in virtually all public places. Alaska's law was enacted in 1984, and was predicated on the following legislative findings:

1. numerous studies have shown second-hand smoke to be a significant health hazard;
2. recent court decisions recognize an emerging right of employees to work in a smoke-free environment; and
3. smoking results in increased costs to employers and the public in the form of more frequent absenteeism by employees who smoke and higher costs for health insurance, fire insurance, life insurance and workers' compensation.

In order to address these findings, current law specifies certain public places and vehicles in which smoking is regulated. In these specified places, smoking and non-smoking areas must be designated. Signs must be posted to accomplish this. Persons who violate the requirement to post signs or who smoke in a designated non-smoking area are subject to civil penalties.

SB 222 revises current law by establishing two categories of public place: those in which smoking is regulated, as with current law, and those in which smoking is absolutely prohibited. The bill takes many of the places currently on the regulated smoking list and moves them to the new smoking prohibited list. It adds several types of places not currently mentioned in the law to the regulated smoking list. It provides that a person in charge of a place on the regulated smoking list may not designate the entire place as a smoking area. Finally, it provides that a person in charge of a place on the regulated smoking list must consider only the health of non-smokers in designating a smoking area, and not the convenience of smokers. A sectional analysis of the bill is attached.

SB 222 will close loopholes in the current law, and more adequately address the findings contained in the 1984 legislation. It protects the health of non-smokers, the prime duty of government in this area. It moves us one step closer to a smoke-free Alaska. I urge the committee to schedule this bill at its earliest convenience. Thank you.

Alaska State Legislature



Senate Judiciary Committee

March 6, 1990

MEMORANDUM

TO: Senator Pat Pourchot, Chairman
Senate State Affairs Committee

FROM: Senator Jan Faiks, Chairman
Senate Judiciary Committee

SUBJECT: SB 222 "An Act relating to smoking in certain
vehicles and indoor places."

Senate Bill 222 has been referred to the Senate State Affairs Committee for consideration. This bill amends Alaska law relating to smoking in certain public places. It was introduced at the request of the American Lung Association of Alaska, as part of their Tobacco Free Alaska 2000 program.

At the present time, approximately 26% of Americans over the age of 16 smoke cigarettes. Alaskans smoke at a rate 5% greater than the national rate.

According to the Surgeon General, cigarette smoking is the single most important environmental factor contributing to premature mortality in the United States. Each year, smoking causes the deaths of more than 300,000 Americans, principally from heart disease, cancer and chronic obstructive lung disease. In 1985, there were estimated to be 261 smoking attributable deaths in Alaska. This was 14% of the state's mortality that year. The estimated total for medical care due to smoking in Alaska in 1985 was \$52.8 million. This does not take into account lost wages due to illness, or losses to employers because of increased insurance premiums and absenteeism.

The tremendous social harms caused directly or indirectly by cigarette smoking cannot be disputed. In an effort to

encourage people not to smoke, and to protect the health and well being of non-smokers who must breathe secondary smoke, many jurisdictions including Alaska have enacted laws restricting smoking in public places.

At the present time, 42 states and the District of Columbia restrict smoking in some manner in public places. These laws range from simple, limited prohibitions to comprehensive clean indoor air laws that limit or ban smoking in virtually all public places. Alaska's law was enacted in 1984, and was predicated on the following legislative findings:

1. numerous studies have shown second-hand smoke to be a significant health hazard;
2. recent court decisions recognize an emerging right of employees to work in a smoke-free environment; and
3. smoking results in increased costs to employers and the public in the form of more frequent absenteeism by employees who smoke and higher costs for health insurance, fire insurance, life insurance and workers' compensation.

In order to address these findings, current law specifies certain public places and vehicles in which smoking is regulated. In these specified places, smoking and non-smoking areas must be designated. Signs must be posted to accomplish this. Persons who violate the requirement to post signs or who smoke in a designated non-smoking area are subject to civil penalties.

CSSB 222 (HESS) revises current law by establishing two categories of public place: those in which smoking is regulated, as with current law, and those in which smoking is absolutely prohibited. The bill takes some of the places currently on the regulated smoking list and moves them to the new smoking prohibited list. It adds several types of places not currently mentioned in the law to the regulated smoking list. Finally, it provides that a person in charge of a place on the regulated smoking list must consider only the health of non-smokers in designating a smoking area, and not the convenience of smokers. A sectional analysis of the bill is attached.

CSSB 222 (HESS) will close loopholes in the current law, and more adequately address the findings contained in the 1984 legislation. It protects the health of non-smokers, the prime duty of government in this area. It moves us one step closer to a smoke-free Alaska. I urge the committee to schedule this bill at its earliest convenience. Thank you.

Current Law	CS SB 222 (HESS)
-------------	------------------

Vehicles and places in which smoking must be regulated by the designation of smoking and non-smoking areas:

- A vehicle of public transportation and a waiting or boarding area for a vehicle of public transportation, including a bus, ferry vessel, train, limousine for hire, taxicab, or scheduled intrastate aircraft flight when consistent with federal law
- A place of employment, a building or other structure, or portion of them, owned, leased or operated by the state or political subdivision of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation
- A public or private school, pre-school, or day care facility
- A room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress
- A patients' or visitors' waiting room or restroom of a public or private laboratory or office associated with dental care, health care, or the healing arts, and a waiting room, restroom, lobby, or hallway of a public or private hospital

Vehicles and places in which smoking must be regulated by the designation of smoking and non-smoking areas:

- Adds "interstate" aircraft flights
- Same
- Prohibits all smoking
- Prohibits all smoking
- Prohibits all smoking

Current Law	CS SB 222 (HESS)
-------------	------------------

- A food service establishment that has a seating capacity of at least 50 persons
- A grocery store or other store maintained primarily for the retail sale of food products
- A place of employment in which the owner, manager, proprietor or other person who has control of the premises posts a sign stating that smoking is prohibited by law
- A nursing home, rest home or other health care institution or facility

- Same
 - Same
 - Same
 - Adds "residential" to describing health care institution or facility
- Adds:
- A courtroom or jury deliberation room
 - A commercial establishment whose premises are open to the general public, including a retail store, a financial institution and a shopping mall
 - Correctional facilities
 - Pioneers Home
 - Post secondary educational institutions
 - Adult day care facility

Current Law

CS SB 222 (HESS)

Where All Smoking is Prohibited:

- An elevator
- Smoking areas for students in elementary or secondary schools

Where All Smoking is Prohibited:

- Same
- A public or private elementary or secondary school, pre-school or children's day care facility. If the school or day care facility is in a private residence, then the prohibition only applies during the hours when the residence is being used as a school or day care facility
- A room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress
- A public or private laboratory or office associated with dental care, health care, or the healing arts, and a public or private hospital, or other nonresidential health care institution or facility

Current Law

SB 222

Vehicles and places in which smoking must be regulated by the designation of smoking and non-smoking areas:

Vehicles and places in which smoking must be regulated by the designation of smoking and non-smoking areas:

- A vehicle of public transportation and a waiting or boarding area for a vehicle of public transportation, including a bus, ferry vessel, train, limousine for hire, taxicab, or scheduled intrastate aircraft flight when consistent with federal law
- A place of employment, a building or other structure, or portion of them, owned, leased or operated by the state or political subdivision of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation
- A public or private school, pre-school, or day care facility
- A room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress
- A patients' or visitors' waiting room or restroom of a public or private laboratory or office associated with dental care, health care, or the healing arts, and a waiting room, restroom, lobby, or hallway of a public or private hospital

- Adds "interstate" aircraft flights
- Prohibits all smoking
- Prohibits all smoking
- Prohibits all smoking
- Prohibits all smoking

Current Law	SB 222
-------------	--------

- A food service establishment that has a seating capacity of at least 50 persons
- A grocery store or other store maintained primarily for the retail sale of food products
- A place of employment in which the owner, manager, proprietor or other person who has control of the premises posts a sign stating that smoking is prohibited by law

- Same
- Same
- Same

Adds:

- A courtroom or jury deliberation room
- A nursing home, rest home or other residential health care institution or facility
- A commercial establishment whose premises are open to the general public, including a retail store, a financial institution and a shopping mall
- Correctional facilities

Where All Smoking is Prohibited:

- An elevator

Where All Smoking is Prohibited:

- Same
- A place of employment, a building or other structure or the portion of them, owned, leased, or operated by the state or a political sub-

Current Law

SB 222

- Smoking areas for students in elementary or secondary schools

division of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation

Not included are a correctional facility, a court room, a jury deliberation room, or Pioneers' Home

- A public or private school, pre-school, or day care facility. If the school or day care facility is in a private residence, then the prohibition only applies during the hours when the residence is being used as a school or day care facility
- A room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress
- A public or private laboratory or office associated with dental care, health care, or the healing arts, and a public or private hospital, or other nonresidential health care institution or facility

FISCAL NOTE

APR 19 1989

REQUEST:

Revision Date: _____
Title: "An Act relating to smoking in
certain vehicles and indoor places."
Sponsor: FAIKS
Requestor: _____

Agency Affected: Environmental Conservation
BRU: Environmental Health

Components: Sanitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	131.8	131.8	131.8	131.8	131.8
TRAVEL		7.5	7.5	7.5	7.5	7.5
CONTRACTUAL		10.5	7.0	7.0	5.0	5.0
SUPPLIES		2.5	2.5	2.5	2.5	2.5
EQUIPMENT		35.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		181.8	148.8	148.8	146.8	146.8

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	181.8	148.8	148.8	146.8	146.8
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	181.8	148.8	148.8	146.8	146.8

POSITIONS:

FULL-TIME	-0-	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The additional educational monitoring and enforcement responsibilities associated with the proposed legislation would require the addition of three full-time sanitarians and associated support costs.

Prepared by: Douglas C. Donegan, Director *DD*
Division: Environmental Health

Phone: 465-2609
Date: 4/18/89

Approved by Commissioner: Dennis D. Kelso *ADK*
Agency: Environmental Conservation

Date: 4/18/89

Distribution (by preparer):

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

MAR 30 1989

**AMERICAN
CANCER
SOCIETY**

ALASKA DIVISION, INC.

March 24, 1989

Sen. Paul Fischer
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fischer,

One hundred-fifty Alaskans will die from lung cancer this year. The sad fact is that most of these deaths could have been prevented. Nationally 155,000 new cases of lung cancer are estimated, while we expect 142,000 deaths this year alone.

If the death of the 142,000 were expected to be due to firearms, aircraft, or other device or conveyance we could look forward to considerable legislative outcry for increased safety or restrictions thereon. Most lung cancers are caused by cigarette smoking. Cigarette smoking is also a major risk factor in cancers of the bladder, oral cavity, and the pancreas. Cigarette smoking.

What good comes from cigarette smoking? The only advantages are those that can be said for the growers and distributors of opiates, cocaine or marijuana, an economic shot in the arm devoid of morality or ethics.

The death of the 142,000 could, for the most part, have been prevented by the elimination of cigarette smoking. It would seem to me, therefore, that we have an ethical debt to these 142,000 and the 139,000 that died in 1988, not to mention those of the preceding years. That ethical debt is simply to stop this insane waste of human life.

We can apparently proceed only a small step at a time in this endeavor to do what is morally correct. Two small steps that seem at least minimally necessary are HB 80 and SB 222. I feel that it is very important that we proceed positively on these bills this session. They have my full support and I think that they should have yours.

Sincerely,



A. H. Koenig
Public Education/Area Director

cc: Roland Gower, M.D., Division President
Richard Parry, M.D., Division Public Issues Chairman
Bruce Kiessling, M.D., Division Public Education Chairman
Michael Franklin, M.D., Division President-Elect

ADOPTED AT THE ALASKA STATE MEDICAL ASSOCIATION
ANNUAL MEETING HELD IN SITKA,
JUNE 10, 1989

RESOLUTION 89-02

SUBJECT: Support of SB 222

WHEREAS, the Surgeon General has concluded that:

- (1) involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers;
- (2) the children of parents who smoke have an increased frequency of respiratory infections, increased respiratory symptoms, and smaller rates of increase in lung function as the lung matures; and
- (3) the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke; and

WHEREAS, tobacco smoke contains about 4,000 chemicals, including 200 known poisons such as DDT, arsenic, formaldehyde and carbon monoxide; and

WHEREAS, the existing smoking in public places law in the State of Alaska does not adequately protect nonsmokers from the known hazards of second hand smoke; therefore

BE IT RESOLVED THAT, the Alaska State Medical Association supports strengthening Alaska's smoking in public places law through the passage of SB 222 or a similar measure, in order to protect the health of Alaskans statewide.

Distribution:

American Lung Association, Alaska Affiliate
Anchorage Health Department
Anchorage Neighborhood Health Center
Eagle River Health Center
Fairbanks Health Center
Division of Public Health
Drug Enforcement Administration
Veterans Administration
UAF Artic Health Research
Hospitals
Nursing Homes
Pioneer Homes
Alaska Thoracic Society
American Academy of Pediatrics
American College of Radiology
Alaska Academy of Physician Assistants
Alaska Dental Society
Alaska Health Fair

American Cancer Society
Cook Inlet Council on Alcohol
and Drug Abuse
March of Dimes, Birth Defects
Health Association of Alaska
Media

(5) "special events" means events involving public gathering and shall include athletic and sporting events where the public congregates, which shall include but not be limited to dog sled racing, horse racing, snowmobile races, skiing events, salmon derbies, and other activities;

(6) "tavern" means a place maintained or held out to the public for purposes of sale and on-premise consumption of alcoholic beverages;

(7) "toilet accommodations" means a facility available to the public consisting of an approved flush-type commode, urinal, privy, self-contained privy or any other device approved by the department for containment and disposal of human wastes and shall include lavatory facilities where practical. (§ 1 ch 58 SLA 1974; am § 3 ch 78 SLA 1976; am E.O. No. 51, § 36 (1981))

Revisor's notes. — Reorganized in 1986 to alphabetize the defined terms.

Article 4. Health Nuisances.

<p>Section 300. Smoking in certain vehicles and indoor places prohibited 310. Exemptions 320. Designation of smoking sections 330. Display of smoking and no smoking signs 340. Civil complaints; penalties</p>	<p>Section 341. Citations; penalty 342. Multiple fines prohibited 343. Injunctions 350. Enforcement authority 355. Public education 365. Definitions</p>
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Cross references. — For legislative findings in connection with ch. 34, SLA 1984, see § 1, ch. 34, SLA 1984 in the Temporary and Special Acts.

Opinions of attorney general. — In light of the repeal of former AS 18.35.360, which granted the Department of Environmental Conservation's authority to write regulations in implementation of this article, the department may promulgate legislative-type regulations which are truly necessary to implementation of

the article; (2) the department may not promulgate other legislative-type regulations, such as those which are helpful but not strictly necessary to the statutory scheme; and (3) the department may issue interpretive regulations which offer suggested guidelines on implementing the article. June 22, 1984, Op. Att'y Gen.

Collateral references. — 39 Am. Jur. 2d, Health, §§ 24, 25, 41-44.

39A C.J.S., Health and Environment, §§ 26, 27.

Sec. 18.35.300. Smoking in certain vehicles and indoor places prohibited. Smoking in any form is a nuisance and a public health hazard and is prohibited in the following vehicles and indoor places, except as otherwise provided by this chapter:

(1) a vehicle of public transportation and a waiting or boarding area for a vehicle of public transportation, including a bus, ferry vessel, train, limousine for hire, taxicab, or scheduled intrastate aircraft flight when consistent with federal law;

(2) an elevator;

(3) a place of employment, a building or other structure, or a portion of them, owned, leased, or operated by the state or a political subdivision of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation;

(4) a public or private school, pre-school, or day care facility;

(5) a courtroom or jury deliberation room;

(6) a room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress;

(7) a patients' or visitors' waiting room or restroom of a public or private laboratory or office associated with dental care, health care, or the healing arts, and a waiting room, restroom, lobby, or hallway of a public or private hospital, nursing home, rest home, or other health care institution or facility;

(8) a food service establishment that has a seating capacity of at least 50 persons;

(9) a grocery store or other store maintained primarily for the retail sale of food products; and

(10) a place of employment in which the owner, manager, proprietor, or other person who has control of the premises posts a sign stating that smoking is prohibited by law. (§ 1 ch 125 SLA 1975; am § 2 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.310. Exemptions. The prohibition set out in AS 18.35.300 does not apply to

(1) a portion of a place or vehicle that is designated as a smoking section under AS 18.35.320;

(2) a limousine for hire or taxicab, if the driver consents and the driver ascertains that all passengers consent to smoking in the vehicle;

(3) smoking by performers on the stage as part of a theatrical or entertainment production. (§ 1 ch 125 SLA 1975; am § 3 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.320. Designation of smoking sections. (a) A person in charge of an indoor place or vehicle of public transportation described in AS 18.35.300 may designate portions of the place or vehicle as smoking sections. For purposes of this section, "vehicle of public transportation" does not include a taxicab or limousine for hire, and "indoor place" does not include an elevator.

(b) The person who chairs the Rules Committee in a house of the legislature is responsible for the designation of smoking sections under this section in the legislative offices, committee rooms, and other places under the control of that house. The authority to designate a smoking section may not be used to impede the work of a conference committee.

(c) A person who designates a smoking section under this section shall make reasonable accommodations for the needs of the smokers and nonsmokers who use the place or vehicle.

(d) Notwithstanding any other provision in this chapter, a smoking section may not be designated under this section for students on the grounds of or in an elementary or secondary school, indoors or outdoors. (§ 1 ch 125 SLA 1975; am § 4 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.330. Display of smoking and no smoking signs. (a) A person in charge of a place or vehicle described in AS 18.35.300, except a limousine for hire or taxicab, shall conspicuously display in the place or vehicle a sign that reads "Smoking Prohibited by Law — Maximum Fine \$50" and that includes the international symbol for no smoking.

(b) In a place or vehicle in which a smoking section has been designated under AS 18.35.320, the person in charge of the place or vehicle shall conspicuously display signs that specify the portions of the place or vehicle in which smoking is allowed by law and in which smoking is prohibited by law.

(c) A sign required by this section must be at least 18 inches wide and six inches high, with lettering at least 1.25 inches high.

(d) The department shall furnish signs required under this section to a person who requests them with the intention of displaying them. (§ 1 ch 125 SLA 1975; am § 5 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.340. Civil complaints; penalties. (a) The commissioner shall develop and maintain a procedure for processing reports of violations of AS 18.35.300 and 18.35.330.

(b) If, after investigating a report made under this section, the commissioner determines that a violation has occurred, (1) the commissioner may file a civil complaint in the district court to enforce the provisions of AS 18.35.300 — 18.35.365; or (2) an employee of the department designated by the commissioner to enforce the provisions of AS 18.35.300 — 18.35.365 may issue a citation under AS 18.35.341(b). If an employee of the department issues a citation, the violation shall be processed and disposed of under AS 18.35.341.

(c) A person who violates AS 18.35.300 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil fine of not less than \$10 nor more than \$50. A person who violates AS 18.35.330 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil fine of not less than \$20 nor more than \$300. Each day a violation of AS 18.35.330 continues after a civil complaint for the violation has been filed and served on the defendant constitutes a separate violation.

(d) The department may provide for the payment of civil fines under this section by mail. (§ 1 ch 125 SLA 1975; am § 6 ch 34 SLA 1984)

Revisor's notes. — In subsections (a) and (b) of this section, the phrase "or of a regulation adopted under AS 18.35.360" was deleted from each subsection in 1984 to correct a manifest error made when

SCS CSHB 84 (Fin) was amended to effect the repeal of AS 18.35.360. The amended bill became ch. 34, SLA 1984.

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.341. Citations; penalty. (a) A peace officer may issue a citation for a violation of AS 18.35.300 committed in the officer's presence or for a violation of AS 18.35.330. The provisions of AS 12.25.180(b) and 12.25.190 — 12.25.230 apply to the issuance of a citation under this subsection.

(b) An employee of the department designated by the commissioner to enforce the provisions of AS 18.35.300 — 18.35.365 may issue a citation for a violation of AS 18.35.300 or 18.35.330 regardless of whether the violation was committed in the employee's presence. A citation issued under this subsection shall be in the same form and shall be processed in the same manner as a citation issued by a peace officer under (a) of this section. An employee of the department may not arrest a person for a violation of AS 18.35.300 or 18.35.330.

(c) A person who violates AS 18.35.300 or 18.35.330 is guilty of a violation as defined in AS 11.81.900(b) and upon conviction is punishable by a fine of not less than \$10 nor more than \$50 for a violation of AS 18.35.300 and by a fine of not less than \$20 nor more than \$300 for

a violation of AS 18.35.330. Each day a violation of AS 18.35.330 continues after a citation for the violation has been issued constitutes a separate violation.

(d) The supreme court shall establish a schedule of bail amounts for violations of AS 18.35.300 and 18.35.330, but in no event may the bail amount exceed the maximum fine that may be imposed for the violation under (c) of this section. The bail amount for a violation shall appear on the citation.

(e) A person cited for a violation under this section may, within 15 days after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed

(1) the amount of bail indicated on the citation for that violation; and

(2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered and the bail is forfeited.

(f) When bail has been forfeited under (e) of this section, a judgment of conviction shall be entered. Forfeiture of bail is a complete satisfaction for the violation. The clerk of the court accepting the bail shall provide the violator with a receipt stating that fact.

(g) If the person cited fails to pay the bail amount established under (d) of this section or to appear in court as required, the citation is considered a summons for a misdemeanor. (§ 7 ch 34 SLA 1984)

Sec. 18.35.342. Multiple fines prohibited. A person may not be fined more than once for each violation of AS 18.35.300 or 18.35.330. (§ 7 ch 34 SLA 1984)

Sec. 18.35.343. Injunctions. The commissioner or any affected party may institute an action in the superior court to enjoin repeated violations of AS 18.35.300 or 18.35.330. (§ 7 ch 34 SLA 1984)

Revisor's notes. — The phrase "or of a regulation adopted under AS 18.35.360" was deleted from this section in 1984 to correct a manifest error made when SCS

CSHB 84 (Fin) was amended to effect the repeal of AS 18.35.360. The amended bill became ch. 34, SLA 1984.

Sec. 18.35.350. Enforcement authority. The commissioner or the commissioner's designee is responsible for enforcing the provisions of AS 18.35.300 — 18.35.365. This section does not limit the authority of peace officers. (E.O. No. 51 § 37 (1981); am § 8 ch 34 SLA 1984)

Revisor's notes. — The phrase "and the regulations adopted under AS 18.35.360" was deleted from this section in 1984 to correct a manifest error made when SCS CSHB 84 (Fin) was amended to effect the repeal of AS 18.35.360. The

amended bill became ch. 34, SLA 1984. The word "section" was added in the second sentence in 1981.

Effect of amendments. — The 1984 amendment rewrote the first section, which read "The commissioner of environ-

mental conservation or his designee is responsible for enforcing the provisions of AS 18.35.300 — 18.35.340 and the regulations adopted under AS 18.35.360.”

Sec. 18.35.355. Public education. The commissioner shall take appropriate measures to inform the public of the provisions of AS 18.35.300 — 18.35.365. (§ 9 ch 34 SLA 1984)

Sec. 18.35.360. Regulations. [Repealed, § 10 ch 34 SLA 1984.]

Sec. 18.35.365. Definitions. In AS 18.35.300 — 18.35.365,
 (1) “commissioner” means commissioner of environmental conservation;
 (2) “department” means the Department of Environmental Conservation. (§ 11 ch 34 SLA 1984)

Chapter 40. Shelter Cabins and Comfort Stations.

<p>Section 10. Shelter cabins and comfort stations on airports 20. Shelter cabins on roads and trails 30. Inspection of cabins 40. Cabins and furnishings property of state</p>	<p>Section 50. Prohibited acts and penalties 60. Exception 70. Damages for destruction of or injury to shelter cabins</p>
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Collateral references. — Establishment, maintenance, and regulation of tourist or trailer camps by public authorities. 22 ALR2d 774.

Racial or religious discrimination in furnishing of public utilities, services, or facilities. 53 ALR3d 1027.

Validity of statutes, ordinances, and regulation requiring the installation or maintenance of various bathroom facilities in dwelling units. 79 ALR3d 716.

Sec. 18.40.010. Shelter cabins and comfort stations on airports. The Department of Transportation and Public Facilities may erect and maintain shelter cabins and comfort stations for the accommodation of travelers on the airports throughout the state where the facilities are required and necessary out of funds appropriated for the construction and maintenance of roads and aviation fields. Each shelter cabin or comfort station shall contain a suitable stove and other facilities considered necessary by the Department of Transportation and Public Facilities. (§ 40-10-1 ACLA 1949; am § 9 art VII title II ch 152 SLA 1957)

(9) "nonattainment area" means a geographic area where the air quality is shown by monitored data to exceed national air quality standards for any air pollutant;

(10) "pollutant emissions" means unburned hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate matter;

(11) "proper maintenance" means the use of maintenance practices set out in this chapter;

(12) "qualified mechanic" means a mechanic who meets competency requirement, imposed by the implementing agency for persons who repair vehicles subject to this chapter;

(13) "repair cost ceiling" means a limit that the implementing agency may establish on the cost of repairs necessary to obtain a certificate of inspection when repair work is done by a qualified mechanic; and

(14) "unauthorized modification" means an engine or emissions control system-related modification that has not been performed according to a recall campaign or service bulletin authorized by a vehicle's manufacturer; "unauthorized modification" includes the use of a replacement emissions-related part that is not functionally equivalent to the original equipment part that it replaces, and the use of any added part or system unless that part or system has been specifically approved for use by the U.S. Environmental Protection Agency, the California Air Resources Board, or by the Alaska Department of Environmental Conservation. (Eff. 5/19/85, Register 94; am 6/2/88, Register 106)

Authority: AS 11.56.20 AS 46.03.190
 AS 46.03.020(10) AS 46.03.790(a)
 AS 46.03.140

Editor's note. -- A list of approved parts and systems mentioned in 18 AAC 52.900(14) can be found in the State Air Quality Plan, Volume III, which is available for viewing at state libraries and regional offices of the Department of Environmental Conservation.

CHAPTER 55. SMOKING IN PUBLIC PLACES

Section	Section
10. Exemptions from smoking prohibition	50. Complaint procedure
20. Smoking areas	60. Waiver of provisions
30. Signs	900. Definitions
40. Penalties	

18 AAC 55.010. EXEMPTIONS FROM SMOKING PROHIBITION. (a) An area may be designated as a smoking area under AS 18.35.310(1) only by the owner, manager, proprietor, or other person who has control over the premises.

(b) An exemption under AS 18.35.310(4) must be in writing, contain a description of the exempted area and its location, and be based upon documentation by a mechanical engineer registered in the state that

(1) the building or room has total air circulation which meets the minimum standards established by ASHRAE Standard 62-73 (1973); or

(2) an electrostatic precipitator, a high-efficiency filter, or other device yields air quality in the building or room which meets the minimum standards established by ASHRAE Standard 62-73 (1973).

(c) A copy of an exemption and appropriate documentation under (b) of this section must be filed with the department before the exemption becomes effective.

(d) The department will, in its discretion, revoke an exemption described in (b) of this section if the ventilating equipment or other device upon which the exemption is based is not properly maintained or is not used while the room or building is occupied.

(e) A state agency or department which exempts a room or building under AS 18.35.310(4) must provide for and designate a clearly separate no-smoking area in the room or building to which the exemption applies. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.310 AS 46.03.020
 AS 18.35.360 AS 46.03.140

Editor's notes. — Copies of ASHRAE Standard 62-73 (1973) are available from ASHRAE, 345 East 47th Street, New York, N.Y. 10017.

18 AAC 55.020. SMOKING AREAS. (a) Subject to (d) and (e) of this section and where smoking is not otherwise prohibited by law, the owner, manager, proprietor, or other person who has control of a vehicle or place described in AS 18.35.300(1), (4) or (6) may designate a smoking area in the vehicle or place.

(b) Subject to (d) and (e) of this section and where smoking is not otherwise prohibited by law, the owner, manager, proprietor, or person who has control of a building described in AS 18.35.300(2), (3), or (5), or which contains a room described in AS 18.35.300(2), (3), or (5), must designate at least one smoking area in the building.

(c) A smoking area designated under this section must be a separate room, hallway, or entrance area. However, in a building described in AS 18.35.300(5), or which contains a room described in AS 18.35.300(5), the designated smoking area may not be a lobby or hallway.

(d) If a smoking area designated is in a bus, it must be clearly separated from the part of the bus in which smoking is prohibited, and it may not occupy more than one-half of the total passenger area of the

bus. A smoking area may not be designated in a limousine for hire or in an elevator.

(e) A smoking area may not be designated in a building, vehicle, or other place if the department determines in writing that prohibiting the designation is necessary to protect the public safety or to protect and preserve the building, vehicle, or place and its contents. The department will deliver a written determination under this subsection to the owner, manager, proprietor, or person who has control of the building, vehicle, or place. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.310 AS 46.03.020
AS 18.35.320 AS 46.03.140
AS 18.35.360

18 AAC 55.030. SIGNS. (a) An owner, manager, proprietor, or other person who has control of a vehicle or place described in AS 18.35.300(1) — (5) shall conspicuously display in the vehicle or place signs reading "Smoking Prohibited by Law," unless smoking is permitted in the vehicle or place under AS 18.35.310. The person shall display the signs so that at least one sign is legible from any part of the vehicle or place in which smoking is prohibited. A sign required by this subsection must include the international smoking-prohibited symbol.

(b) An owner, manager, proprietor, or other person who has control of a vehicle or place in which a smoking area has been designated under 18 AAC 55.020 shall conspicuously display in the smoking area signs designating the area as one in which smoking is permitted. These signs may not be larger than the "Smoking Prohibited by Law" signs in the same vehicle or place. Signs required by this subsection must include the international smoking-permitted symbol.

(c) "Smoking Prohibited by Law" signs in elevators must be permanently and conspicuously mounted under glass or other clear, durable, and protective material.

(d) Additional signs of the appropriate type may be posted at entrances to vehicles, places, and areas of vehicles and places. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.330 AS 46.03.020
AS 18.35.360 AS 46.03.140

18 AAC 55.040. PENALTIES. (a) A person who willfully violates AS 18.35.300 by smoking where smoking is prohibited is punishable by a civil fine of \$15 for the first offense and by a civil fine of \$25 for each subsequent offense.

(b) A person who willfully violates AS 18.35.330 or 18 AAC 55.030 by not displaying the required sign is punishable by a civil fine of \$50 for the first offense and by a civil fine of \$100 for each subsequent

offense. However, the department may dismiss a first offense complaint without payment of a fine if the defendant demonstrates that the required sign has been posted. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.340 AS 46.03.020
AS 18.35.360 AS 46.03.140

18 AAC 55.050. COMPLAINT PROCEDURE. (a) A person who observes a violation of this chapter or of AS 18.35.300 — 18.35.360 may notify an office of the department.

(b) The department will provide an affidavit in which the complainant may describe the observed violation and a form agreement in which the complainant may promise to testify in court under subpoena concerning the observed violation if testimony becomes necessary.

(c) If the complainant executes both documents the department, with the assistance of the attorney general's office, will, in its discretion, file a complaint in small claims court for a civil fine, court costs, and attorney's fees against the person who was observed violating this chapter or AS 18.35.300 — 18.35.360. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.340 AS 46.03.020
AS 18.35.350 AS 46.03.140
AS 18.35.360

18 AAC 55.060. WAIVER OF PROVISIONS. (a) The department will, in its discretion, waive a provision of 18 AAC 55.010 — 18 AAC 55.900 if it determines that the public health and the satisfaction of the purpose of the provision are reasonably assured and that the requirements of AS 18.35.300 — 18.35.360 are satisfied.

(b) Application for a waiver must be made in writing and must include

(1) identification of the provision for which the waiver is requested;

(2) reasons why the provision cannot be satisfied; and

(3) a description of an alternative method, if any, proposed for meeting the purpose of the provision to be waived.

(c) The department will answer a request for a waiver in writing within 30 days after receipt of the request. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.350 AS 46.03.020
AS 18.35.360 AS 46.03.140

18 AAC 55.900. DEFINITIONS. (a) In this chapter

(1) "ASHRAE" means the American Society of Heating, Refrigeration and Air Conditioning Engineers;

(2) "complainant" means a person who has observed a violation of this chapter and notifies the department;

(3) "department" means the Department of Environmental Conservation.

(b) In AS 18.35.300 — 18.35.360 "public meeting" means a regular or special meeting of a legislative body, a board of regents, or an administrative body of the state, including but not limited to their boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions, committees, offices, organizations, and other subordinate units, advisory or otherwise, supported in whole or in part by public money or authorized to spend public money; however, "public meeting" does not include a meeting of

(1) a judicial or quasi-judicial body solely to make a decision in an adjudicatory proceeding;

(2) a jury;

(3) a parole or pardon board;

(4) the medical staff of a hospital; or

(5) the governing body or a committee of a hospital solely to act upon matters of professional qualifications, privileges, or discipline.

(c) In this chapter and in AS 18.35.300 — 18.35.360

(1) "bus" means a self-propelled vehicle with capacity for carrying more than 10 passengers which is used on public highways to transport passengers for compensation;

(2) "limousine for hire" means a self-propelled vehicle with capacity for carrying six to 10 passengers which is used on public highways to transport passengers for compensation between a transportation terminal and other designated points;

(3) "other person who has control" means the agent of the owner, manager, or proprietor authorized to give administrative direction to and exercise general supervision of the activities in a vehicle or place; in a state office building, "other person who has control" means a division director who has authority over the office or his designee;

(4) "room" means an indoor area which is bordered on all sides by walls or partitions which are continuous and solid except for door portals for entry and exit and except for windows and vents;

(5) "smoking" means holding or carrying a lighted cigar, cigarette, pipe, or other lighted smoking equipment or material. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.360
AS 46.03.020
AS 46.03.140