

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6705 SENATE STATE AFFAIRS

1109

TABLE 3 (Continued)

## STATE AGENCY ANNUAL REPORTS AND PLANS REQUIRED BY THE GOVERNOR UNDER ALASKA STATUTE OR BY THE FEDERAL GOVERNMENT

Department	Annual Report or Plan	Statutory Citation	Estimated Costs of Annual Report/Plan	Estimated Savings with Biennial Report/Plan	Problems with Biennial Report
Environmental Conservation	Annual Progress Reports for EPA Grants	Federal laws	Federal EPA funds	Not applicable	Required annually by the EPA
Fish and Game	Numerous Reports for federal fish and wildlife aid	Federal laws	Federal funds	Not applicable	Required annually by the federal government
Health and Social Services	Vital Statistics Annual Report	AS 18.50.040*	Research/Writing: \$41,800 Printing: 900 Distribution: 1,100	\$ 2,000 (annual data would still be collected and computerized)	Loss of annual summary to handle many requests; required annually by the federal government
	Village Health Clinic Survey	AS 18.20.150*	Research/Writing: \$ 7,500 Printing: 800 Distribution: 250	\$ 8,550/two years	Loss of annual data on condition of clinics statewide for budget decisions
	Certificate of Need Activity Report	Federal law 7 AAC 07.105	Total cost: \$ 300	Not applicable	Required annually by the federal government
Labor	Information pending				
Law	None cited				
Military and Veteran Affairs	None cited				

\*Report or plan required to be prepared annually but not submitted to specific party.

TABLE 3 (Continued)  
 STATE AGENCY ANNUAL REPORTS AND PLANS REQUIRED BY THE GOVERNOR UNDER ALASKA STATUTE OR BY THE FEDERAL GOVERNMENT

Department	Annual Report or Plan	Statutory Citation	Estimated Costs of Annual Report/Plan	Estimated Savings with Biennial Report/Plan	Problems with Biennial Report/Plan
Natural Resources	Annual Land Demand Assessment Report	AS 38.04.020	Research/Writing: \$ 3,125 Printing: 500 Distribution: 50	\$ 3,675/two years	None; data collected annually but would not be compiled
Public Safety	Highway Safety Plan	NHSA/FHWA Joint Order 960-2A/7510.3A	Research/Writing: \$23,330 Printing: 3,000 Distribution: 200	Not applicable	Required annually by the Federal Highway Administration
	Alcohol Highway Safety Plan	23 CFR 408	Research/Writing \$18,920 Printing: 1,300 Distribution: 100	Not applicable	Required annually by the FHWA
	Annual Highway Safety Evaluation	960-2A/7510.3A	Research/Writing: \$ 6,105 Printing: 50 Distribution: 10	Not applicable	Required annually by the FHWA
Revenue	Child Support Program State Plan	45 CFR 232.2	Research/Writing: \$ 400 Printing: 50 Distribution: 50	Not applicable	Required annually by the federal government
	International Airports Revenue Bond Debt Service Report	AS 37.15.480	Minimal	Minimal	None
	General Obligation Bond Debt Service Report	AS 37.15.170*	Minimal	Minimal	None
Transportation and Public Facilities	Annual State Public Facilities Plan	AS 44.42.055*	Research/Writing: \$ 7,890 Printing: 2,500 Distribution: 0	\$ 2,500/two years	None

\*Report or plan required to be prepared annually but not submitted to specific party.

TABLE 3 (Continued)

## STATE AGENCY ANNUAL REPORTS AND PLANS REQUIRED BY THE GOVERNOR UNDER ALASKA STATUTE OR BY THE FEDERAL GOVERNMENT

Department	Annual Report or Plan	Statutory Citation	Estimated Costs of Annual Report/Plan	Estimated Savings with Biennial Report/Plan	Problems with Biennial Report/Plans
Transportation and Public Facilities	Multi-year State Transportation Plan and Capital Improvement Program	AS 19.10.140 AS 44.42.050	Research/Writing \$243,875 Printing: 10,900 Distribution: 1,800	\$199,270/two years	Would not be reliable up-to-date indicator of improvement plans by other governments; needed for annual budget process
	Annual Highway Travel Inventory	Federal law	Research/Writing \$ 8,300 Printing: 1,500 Distribution: 200	\$ 1,700/two years data would still be collected annually)	FHWA does not require annual reporting but annual traffic data in summary format are needed for DOT/PF planning and design
	Annual Work Program	Federal law	Research/Writing \$ 5,000 Printing: 100 Distribution: 50	Not applicable	Required annually by the FHWA
	FHWA 105 Program Annual Report	Federal law	Research/Writing \$ 4,650 Printing: 50 Distribution: 50	Minimal; would still require annual data maintenance	Required annually by the FHWA
	Standards & Technical Services Division: several (8) reports addressing highway safety, real property, advertising, junkyards, and bridge structures	23 CFR 131, 136, 630, 650, 659, and 924; FHWA Order 6540.1; FHWA Notice 5080.101; and Fedl aid HP manual 7-5-1-16	Total: \$ 33,320	Minimal	Required annually by the FHWA

TOTAL: \$ 673,955/year  
 (Without Department of Labor) 1,347,910/two years

\$304,720/two years (25% of biennial costs)  
 \$ 13,100/two years (1%; only State-required reports where agency indicated that there would be no problems with biennial report)

\*Report or plan required to be prepared annually but not submitted to specific party.

TABLE 4  
STATE AGENCY ANNUAL REPORTS AND PLANS NOT SPECIFICALLY REQUIRED BY ALASKA STATUTE

Department	Annual Report or Plan	Estimated Costs of Annual Report/Plan	Estimated Savings with Biennial Report/Plan	Problems with Biennial Report/Plan
Administration	Information Systems Committee Annual Report	Research/Writing: \$ 1,200 Printing: 150 Distribution: 1,350	\$ 950/two years	Lack of current data on technology may adversely affect interested State agencies
Commerce and Economic Development	Alaska's Mineral Industry (see also Dept. of Nat. Res.)	Research/Writing: \$ 2,390 Printing: 9,000 Distribution: 200	\$ 1,340/two years	Basic economic data would need to be collected each year; loss of convenient summary to handle many requests
	Comparative Statement of Assets, Liabilities, and Capital Accounts of Alaska Banks	Research/Writing: \$ 260 Printing: 25 Distribution: 50	Minimal; (quarterly reports filed with State by banks)	Loss of summary report used for supervision of banking industry in state
	Annual Corporate Directory	Research/Writing: \$ 20 Printing: 3,000 Distribution: 230	\$ 3,220/two years (Revenue collected on the sale of individual copies)	Data compiled anyway (required to be updated every six months: AS 10.05.048); the public & agencies would have to use microfiche copies
	Alaska Real Estate Commission Annual Report	Research/Writing: \$ 165 Printing: 25 Distribution: 25	\$ 200/two years	None
Community and Regional Affairs	Municipal Officials Directory	Research/Writing: \$ 5,800 Printing: 4,000 Distribution: 200	\$ 5,400/two years	Centralized data on local officials would be outdated because of yearly turnover
	Child Care Programs Summary	60 hours professional staff; 30 hours clerical staff	Report is biennial	None

TABLE 4 (Continued)  
STATE AGENCY ANNUAL REPORTS AND PLANS NOT SPECIFICALLY REQUIRED BY ALASKA STATUTE

Department	Annual Report or Plan	Estimated Costs of Annual Report/Plan	Estimated Savings with Biennial Report/Plan	Problems with Biennial Report/Plan
OK Corrections	Department Annual Report	Research/Writing: \$ 23,775 Printing: 4,525 Distribution: 445	\$20,050/two years	Loss of centralized data would increase individual responses by staff; loss of usable form of annual data for internal use
OK Education	Annual Report to the People	Research/Writing: \$ 3,000 Printing: 1,100 Distribution: 205	No savings since staff used to respond to many individual requests	Loss of centralized, updated information on Alaska
	Annual Status Report to Board of Education (Adult & Vocational Education)	Research/Writing: \$ 5,500 Printing: 0 Distribution: 0	\$ 5,500/two years	Failure to meet new requirement instituted by State Board of Education
	Annual Report of Grant Awards for Construction	Research/Writing: \$ 135 Printing: 0 Distribution: 150	\$ 285/two years	Loss of annual data in summary form
	Bilingual/Multi-cultural Education Annual Report	Research/Writing: \$ 700 Printing: 6,000 Distribution: 600	\$ 7,300/two years	None
	Professional Teaching Practices Commission Annual Rpt.	Research/Writing: \$ 1,250 Printing: 90 Distribution: 90	No savings since staff used to respond to many individual requests	Inability of Commission to efficiently respond to requests for annual information
Environmental Conservation	None cited			
Fish and Game	None cited			
Health and Social Services	Division of Mental Health and Developmental Disabilities Annual Report	Research/Writing: \$ 25,000 Printing: 4,000 Distribution: 3,000	\$18,700/two years (rough estimate)	Loss of annual data used heavily by 26 mental health centers statewide; annual report meets requirements under AS 47.30.520-540

TABLE 4 (Continued)  
STATE AGENCY ANNUAL REPORTS AND PLANS NOT SPECIFICALLY REQUIRED BY ALASKA STATUTE

Department	Annual Report or Plan	Estimated Costs of Annual Report/Plan	Estimated Savings with Biennial Report/Plan	Problems with Biennial Report/Plan
Labor	Information pending			
Law	None cited			
Military and Veteran Affairs	None cited			
Natural Resources	Alaska's Mineral Industry	Research/Writing \$59,685 Printing: 4,555 Distribution: 3,040	\$ 22,205/two years	Would still need annual summary to handle many requests
Public Safety	Crime in Alaska	Research/Writing \$ 4,690 Printing: 4,270 Distribution: 325	Minimal; annual data would be collected and analyzed anyway.	loss of efficient, annual summary to handle many individual requests
Revenue	Alaska Public Debt	Research/Writing \$ 5,000 Printing: 5,000 Distribution: 500	\$10,500/two years	None
	General Fund Audit	Research/Writing \$ 5,000 External Audit: 20,000 Printing: minimal Distribution: minimal	\$25,000/two years	Annual audits necessary to reconcile Treasury investment to the State accounting system
	PERS and TRS Audit	Research/Writing \$ 5,000 Printing: minimal Distribution: minimal	\$ 5,000/two years	Annual audits necessary to reconcile Treasury investments to annual actuarial report; basis for determining employer contribution rate
Transportation and Public Facilities	Capital Budget: Project Status, Central Region	Research/Writing \$ 6,000 Printing: 1,000 Distribution: 0	\$ 3,500/two years	Loss of useful source document for annual budgeting process; loss of summary form to handle many requests

TABLE 4 (Continued)  
 STATE AGENCY ANNUAL REPORTS AND PLANS NOT SPECIFICALLY REQUIRED BY ALASKA STATUTE

Department	Annual Report or Plan	Estimated Costs of Annual Report/Plan	Estimated Savings with Biennial Report/Plan	Problems with Biennial Report/Plan
* Transportation and Public Facilities	Annual Research Report	Research/Writing \$ 3,520 Printing: 1,940 Distribution: 250	\$ 5,710/two years	Two-year report cycle would result in out-dated information
	Annual Marine Highway Traffic Volume Report	Research/Writing \$ 3,000 Printing: 600 Distribution: 50	\$ 650/two years	Loss of current marine traffic data used by several agencies for planning
	Shore Facility Inventory and Condition Survey	Research/Writing \$44,800 Printing: 100 Distribution: 100	Report is biennial	None; helps fulfill Department requirement under AS 35.10.170

TOTAL: \$ 284,080/year \$135,510/two years (24% of total biennial costs)  
 (Without Department of Labor) 568,160/two years 18,000/two years (3%; only reports where agency indicated that there would be no problems with biennial report)

Prepared by the House Research Agency, May 1985.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

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

May 29, 1985

MEMORANDUM

TO: Representative Mike Navarre

ATTN: Roger Poppe

FROM: Gretchen Keiser *G. Keiser*  
Legislative Analyst

RE: Costs of Annual Reports and Plans Produced by the State of Alaska  
Research Request 85-261 (Supplemental Information)

This memorandum, which supplements our May 16, 1985 memorandum, provides information on reports and plans prepared by the Alaska Department of Labor. The department's cost estimates are summarized below. In addition, we have revised Table 1 from our earlier memorandum in order to include the Department of Labor's costs in the summary of annual reports and plans prepared by all State agencies.

The Department of Labor is not required to submit any annual reports or plans to the Alaska Legislature. The department publishes the report entitled Annual Planning Information, which reflects annual data collection and reporting responsibilities under numerous federal contracts with the Bureau of Labor Statistics. The department has not segregated staff time spent on research and writing of this report from its routine production of labor statistics for the federal contracts. According to the department, it is impossible to estimate the research and writing costs for this report at this time. Printing costs average about \$6,500 and distribution costs about \$3,000 each year. The department indicates that a biennial report would be inadvisable because of the heavy demand for current Alaska labor market data.

The department is required by AS 23.20.022 to submit to the Governor a biennial Unemployment Insurance Actuarial report. The federal government also requires this biennial report. The biennial costs are estimated to be: \$10,755 (research and writing); \$1,400 (printing); and \$100 (distribution).

Table 1 summarizes the number of reports and plans and cost information obtained from the State agencies. It has been revised to include the Annual Planning Information report prepared by the Department of Labor in the category of reports not specifically required by Alaska Statute.

\* \* \* \* \*

Please contact us if you have any questions about this information.

GK

Attachment

TABLE 1  
SUMMARY OF ANNUAL REPORTS AND PLANS PREPARED BY STATE AGENCIES<sup>a</sup>

Reports/Plans By Category	Number of Reports/Plans	Estimated Costs of Reports/Plans	Estimated Savings with All Biennial Reports/Plans	Estimated Savings Where No Problems with Biennial Reports/Plans
Required by the Legislature under Alaska Statute	41	\$ 514,735/year 1,029,470/two years	\$ 234,065/two years (23% of biennial costs)	\$ 139,215/two years (14% of biennial costs)
Required under Alaska Statute (by the Governor, Commis- sioner, etc.)	13	\$ 358,415/year 716,830/two years	\$ 221,020/two years (31% of biennial costs)	\$ 13,100/two years (2% of biennial costs)
Required by the Federal Government <sup>b</sup>	41 <sup>+</sup>	\$ 315,540/year <sup>c</sup> 631,080/year	\$ 83,700/two years (13% of biennial costs)	All agencies indicated there would be problems under federal requirements
Not Specifically Required under Alaska Statute	23	\$ 293,580/year 587,160/two years	\$ 135,510/two years (23% of biennial costs)	\$ 18,000/two years (3% of biennial costs)
TOTAL:	118	\$1,482,270/year 2,964,540/two years	\$ 674,295/two years (23% of biennial costs)	\$ 170,315/two years (6% of biennial costs)

<sup>a</sup>Revised May 24, 1985 to include information from the Alaska Department of Labor.

<sup>b</sup>The Departments of Environmental Conservation and Fish and Game also produce several annual reports/plans which were not itemized but which are required by the federal government.

<sup>c</sup>Estimate does not include expenses which an agency identified as met with federal funds.

Prepared by the House Research Agency, May 1985.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

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

March 29, 1985

MEMORANDUM

TO: Representative Mike Navarre

ATTN: Roger Poppe

FROM: Gretchen Keiser *Gretchen Keiser*  
Legislative Analyst

RE: Potential State Savings by Producing Annual Reports and Plans  
on a Biennial Basis  
Research Request 85-261

You requested this agency to determine how much money could be saved by the State if the annual Energy Plan for Alaska were prepared on a bi-ennial basis. This memorandum is a followup to our conversation on March 26, 1985.

According to Mark Miller, Development Specialist responsible for preparing the annual Energy Plan in the Office of Energy (Department of Commerce and Economic Development), they could save about \$10,000 in editing, printing and distribution expenses if the plan were not produced in 1986. He indicated that about 50 percent of his time is allocated to the energy plan--both the written document and the interagency planning and implementation process. If he were not spending time producing a written plan in FY 86, he would likely devote that time to implementing the 1985 energy plan so that there would likely be no savings in staff salary under the biennial plan approach.

Mr. Miller also mentioned several other points regarding the costs of preparing the 1985 Energy Plan for Alaska:

- 1) The other agencies involved (Alaska Power Authority, DC&RA, DOT/PF, DNR, DHSS and the Office of the Governor) were not reimbursed by the Office of Energy for their staff time and travel expenses.
- 2) The teleconferencing services used during the preparation of the energy plan were not charged to the Office of Energy.
- 3) Forty percent of the Office of Energy's FY 85 budget is federal receipts; no federal funds were spent on preparing the energy plan.

Representative Navarre  
March 29, 1985  
Page 2

You also requested this agency to determine the amount of money being spent annually by the State to produce all its annual reports and plans. We were also asked to estimate the amount of money the State could save by preparing these reports and plans on a biennial rather than annual basis. A letter requesting this information is being sent to all commissioners and the Administrative Director of the Court System. For your information, a copy of the letter and distribution list is attached. We anticipate a research completion date of May 1, 1985 provided all agencies respond in a timely manner.

GK

Attachments

**HB**

**268**

# FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Alaska Commission  
 Title: Act relating to the BRU: on Judicial Conduct  
Commission on Judicial  
Conduct  
 Sponsor: Judiciary Components: \_\_\_\_\_  
 Requestor: State Affairs

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING:** (Thousands of Dollars)

General Funds	-0-	-0-	-0-	-0-	-0-	-0-
Federal Funds	-0-	-0-	-0-	-0-	-0-	-0-
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Marla N. Greenstein, Executive Director  
 Division: Alaska Comm'n on Judicial Conduct  
 Approved by: Marla N. Greenstein, Executive Director  
 Agency: Alaska Comm'n on Judicial Conduct

Phone: 272-1033  
 Date: 2-5-90  
 Date: 2-5-90

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

CS HB 268 (Jud) am, Commission on Judicial Conduct and to the Alaska Supreme Court's power to discipline judges.

INVITATIONAL TELECONFERENCE; Anchorage LIO and Marla Greenstein  
ANNOUNCE; WE ARE ONLY TELECONFERENCING TWO BILLS TODAY;  
CS HB 268 and SB 518, after that we will drop off line.

TO TESTIFY;

Representative Gruenberg or staff, Andy Hemenway  
Marla Greenstein, Director of the AK. Commission on Judicial Conduct.  
AK.Family Support Group: John Grames and/or Steve Strube

NOTES;

1. Donley tried to amend on the house floor to further open up the process by requiring that the Council vote (intent is to make a conscious decision) to impose confidentiality on the proceeding. Amendment failed,

He also tried to amend by adding that a minority report go to the Supreme Court at any time if signed by commission members. Amendment failed.

Commission strongly opposed to both amendments.

House journal showing the amendments is in your packet, NOT in committee packets.

DONLEY VERY INTERESTED IN THIS BILL, HE MAY SHOW UP TO TESTIFY.

SECTIONAL ANALYSIS

CS HB 268 (JUD)

Section 1 [AS 15.58.050]

Conforming amendment; deletes reference to statutory subsections deleted in Section 5 of the bill.

Section 2 [AS 22.30.010]

Requires that a quorum of the Commission on Judicial Conduct include at least one member from each of its three constituent groups: judges, attorneys, and public members.

SENATE COMMITTEE REPORT

DATE: 4/2/90

FURTHER: Judiciary

DATE TURNED INTO OFFICE: \_\_\_\_\_

State Affairs Committee considered CSHB 268 (Judiciary)

"An Act relating to the Commission on Judicial Conduct and to the Alaska Supreme Court's power to discipline judges."

and recommended:

- replace with \_\_\_\_\_ CS \_\_\_\_\_  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:

*Jan Fuchs*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS:

*Al Adams. No Rec*  
\_\_\_\_\_  
\_\_\_\_\_

*Pat Sanchez do pass*  
\_\_\_\_\_  
Chair: Signature and Recommendation

# 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: Senate State Affairs Committee Members  
FROM: Senator Pat Pourchot  
RE: Monday, April 23 Committee Hearing  
DATE: April 21, 1990

On ~~Wednesday~~, April 23 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SB 206. An Act relating to intrastate competition in telecommunications; continuing the existence of the APUC; and providing for an effective date.  
Rescheduled to Wednesday, April 25  
CSHB 405. Public Access to public information.  
Rescheduled to Wednesday, April 25

CS HB 268 (jud). An Act relating to the Commission on Judicial Conduct and to the Alaska Supreme Court's power to discipline judges. The major provisions of this bill, sponsored by Representative Gruenberg, are:  
.the Judicial Conduct Commission would be required to hold a public hearing if it finds probable cause to proceed on an allegation of judicial misconduct. Currently, the public remains uninformed until the matter is resolved.  
.removal of unconstitutional language which allowed the Commission to reprimand judges, clarification that only the Supreme Court can sanction judges.  
.clarification that the hearing on the charges and the majority and minority report of the Commission are public.

Further Referral: Judiciary House Vote: 39 Yeas 0 Nays

SB 518. An Act relating to income eligibility for certain housing weatherization programs. Sponsored by the Rules Committee, at the request of Senator Coghill, this bill would restrict the Department of Community and Regional Affairs from considering the value of the longevity bonus or permanent fund dividends in determining eligibility for weatherization assistance. DCRA currently contracts on a community by community basis, therefore this bill would increase the number of eligible participants in a given community but due to budget constraints, the total number of people served will not increase. No further committee referral.

SB 547. An Act relating to address information required for voter registration and providing for an effective date. This bill was developed at the request of Division of Elections as a response to the Baird vs. State court decision, in which the court decided against the countability of votes cast

by voters with insufficient addresses. According to the Division of Elections, that court decision has the potential to disenfranchise between 19,000 and 25,000 rural voters in the upcoming Primary and General Elections. SB 547 clarifies the rules on which Division of Elections will determine the sufficiency of address information. No further committee referral.

SB 452, An Act repealing limitations on the Older Alaskans Commissions relating to the longevity bonus program and the Alaska Pioneers Home. Sponsored by Senator Rodey, this bill expands the powers of the OAC by repealing the statute which denies them the authority to investigate, review or undertake any responsibility for the longevity bonus program or the Pioneers' Homes. There is no fiscal impact. No further committee referral.

CS HB 244 (Fin) am. An Act relating to the frequency and content of certain state agency reports; relating to the frequency and contents of the report to the legislature on the housing assistance revolving fund; eliminating an annual oil and gas reporting and analysis requirement; and eliminating the long-term energy plan preparation and revision requirements. Sponsored by the House Finance Committee, this bill changes many state agency report requirements from an annual to a biennial basis and eliminates the annual oil and gas reporting/analysis requirement and the annual long-term energy plan. Further Committee Referral: Finance House Vote: 40 Yeas 0 Nays

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
VICE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES



P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

## MEMORANDUM

TO: Sen. Pat Pourchot  
Chairman, Senate State Affairs Committee

FROM: Rep. Max F. Gruenberg, Jr. *MG*

DATE: April 6, 1990

SUBJECT: Scheduling of HB 268, "An Act relating to the  
Commission on Judicial Conduct."

The House unanimously passed CS HB 268 (Jud) on March 30, and the bill is ready for a hearing in your committee. A sectional analysis of the bill is attached.

The bill opens the process of judicial discipline to the public, once there is a finding of probable cause that a judge has violated standards of judicial conduct. Under current law the public remains uninformed about pending disciplinary matters until they are finally resolved.

This new legislation will substantially improve the judicial discipline process, and I ask that you schedule the bill as soon as possible.

CSHB 268 (Jud)

Amendment No. 1 by Donley:

Page 4, lines 2 - 17:

Delete all material and insert:

"\* Sec. 6. AS 22.30.060(b) is amended to read:

(b) All proceedings, records, files, and reports of the commission are confidential and disclosure may not be made except

(1) upon waiver in writing by the judge at any stage of the proceedings;

(2) if the subject matter or the fact of the filing of charges has become public, in which case the commission may issue a statement in order to confirm the pendency of the investigation, to clarify the procedural aspects of the proceedings, to explain the right of the judge to a fair hearing, or to state that the judge denies the allegations; or

(3) that when the commission first meets to consider an allegation and has an opportunity to vote on the question of confidentiality, the proceedings, records, files, and reports of the commission become public unless the commission votes to keep the proceedings, records, files, and reports confidential, and at least one public member votes in favor of confidentiality; if the commission imposes confidentiality under this paragraph, the proceedings, records, files, and reports remain confidential until the commission files formal charges, if any, on the allegation; upon filing of formal charges, all proceedings, records, files, and reports of the commission relating to the case are public except for deliberations of the commission concerning the case, which remain confidential; the commission's ultimate decision and recommendation to the supreme court, if any, including any minority report, are public [UPON FILING OF FORMAL CHARGES, IN WHICH CASE ONLY THE CHARGES SHALL BECOME PUBLIC]."

Representative Donley moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative Goll objected.

The Speaker placed a call of the House on CSHB 268 (Jud) and lifted the call.

CSHB 265 (Jud)

Amendment No. 1 to Amendment No. 1 by Donley:

In paragraph (3), lines 7 and 8:

Delete "and at least one public member votes in favor of confidentiality"

Representative Donley moved and asked unanimous consent that Amendment No. 1 to Amendment No. 1 be adopted. There being no objection, it was so ordered.

The question being: "Shall Amendment No. 1 as amended be adopted?" The roll was taken with the following result:

CSHB 268 (JUD) AM1 AM

Yeas: 16 Collins, Cotten, Davis, C.,  
Donley, Furnace, Hanley, Hoffman,  
Hudson, Jacko, Larson, Leman,  
Martin, Menard, Shultz,  
Swackhammer, Zawacki

Nays: 22 Boucher, Boyer, Brown, Davidson,  
Davis, M., Ellis, Finkelstein,  
Foster, Goll, Gruenberg,  
Grussendorf, Koponen, Kubina,  
Miller, Navarre, Pettyjohn,  
Phillips, Riegler, Sharp, Taylor,  
Ulmer, Wallis

Excused: 1 Barnes

Absent: 1 MacLean

Sharp changed from "yea" to "nay".

And so, Amendment No. 1 as amended was not adopted.

Amendment No. 2 was not offered.

Amendment No. 3 by Donley:

Page 4, line 25, following "committees.":

Add:

"If three members of the commission agree, they may submit a report recommending a different course of action by the commission at any time to the chief justice of the supreme court, the attorney general and the chair of the senate and house judiciary committees."

*Amendment Failed.*

7 5/25/90  
PAT: Caution... John Grames  
belongs to this group and will be on  
teleconference. This letter is only  
about Judge Carlson... but you  
should review.



April 22, 1990

Chris Christiansen  
Senator Jan Faik's Office  
Box V  
Juneau, Ak. 99811

Re: House Bill 268, and Judicial Corruption

Dear Chris,

It is my understanding that House Bill 268, the Bill regarding the Alaska Commission on Judicial Conduct will be heard in the Senate State Affairs Committee on Monday, April 23, 1990.

Because the Alaska Family Support Group that I represent did not have the opportunity to testify or ask questions when HB 268 was heard in the House, please consider this a request that this document be distributed to the members of the Senate State Affairs Committee and to the members of the Senate Judiciary Committee, and that the following questions be asked of the representative of the Alaska Judicial conduct Commission when HB 268 is heard in Committee:

1. Marla Greenstien, Executive Director of the Alaska Commission on Judicial Conduct, who also served as Senior Staff Attorney on the Alaska Judicial Council, has publicly stated that the complaints against Judge Carlson are being made by losers in divorce court who are particularly bitter and unhappy, implying that this accounts for the many complaints against Judge Carlson.

Having seen all the complaints is there any merit to the charges that Judge Carlson committed crimes, and violates court rules, codes, and judicial canons? Are these complainants victimized or are they just prejudiced against Judge Carlson?

2. Are there substantive facts that Judge Carlson has treated the complainants unfairly?

3. What are your views on open government in this delicate area of confidentiality and the public's right to know?

4. Are nearly all of the complaints made to the Commission also filed with the Alaska Supreme Court in the appellate process?

If the answer is yes than the Supreme Court is aware of the complaints. How would you open up the process of investigating complaints of judicial misconduct to the other two branches of government?

5. Can you tell us how many complaints against Judge Carlson have been filed with the Alaska Commission on Judicial Conduct to date or the nature of those complaints?

6. What actions can the public and their elected officials take to follow-up on complaints that are brought before the Commission and the Supreme Court?

7. Besides the recommendations of special interests, how does the public obtain information to knowledgeably vote on the retention of judges?

8. Prior to the recommendation of the Ombudsman did you see the potential conflict of interest when you served on both the Commission on Judicial Conduct and on the Judicial Council?

As we approach 1000 petition signatures calling for the investigation into the impeachment of Judge Carlson, we have failed to receive a response, a special investigation, or a special hearing from Senator Tim Kelly, President of the Senate. See attached letter and petition.

Every Bill that we are supporting in the legislature this session that will benefit Alaskan families, ( HB 571, HB 472, HB 561, HB 538 and 539, and SB 519 has been stalled by the lobbying efforts of the other branches of government using State funds; in an unholy alliance with the Bar Association and the Women's Lobby. This results in discrimination against men, fathers, and families. In our view, this undermines democracy, change, and reform.

You can count on us to keep striving for fairness and equality in the child support industry, including wiser laws, better government, and healthier families.

In closing, we would like to draw attention to widespread fear of retribution from judges and lawyers, and a large number of people are afraid that someone will see their names on the petitions.

Sincerely,

*Steven P. Strube*

Steven P. Strube, Director

892-7760 HM

892-6027 WK

**ALASKA FAMILY SUPPORT GROUP  
P.O. BOX 521155  
BIG LAKE, ALASKA 99852**

3

P.O. BOX 521155 BIG LAKE, ALASKA 99652

FOR IMMEDIATE NEWS RELEASE

March 31, 1990

Senator Tim Kelly  
Senate President  
P.O. Box V  
Juneau, Ak. 99811



Dear Senator Kelly,

Please accept these 600 petition signatures collected from among our Alaska Family Support Group members during the past month, requesting an investigation toward the possible impeachment of Superior Court Judge Victor D. Carlson.

We are continuing to collect signatures until the investigation by the Legislative Branch of Government has begun, and we are planning our petition campaign with "WE THE PEOPLE" and other pro-democracy-groups.

We are compelled to petition our elected representatives because our institutions of government have failed us. Judges, lawyers, and administrators charged with the task of running the justice system have postponed cleaning the courthouse we provide them, using their rules of confidentiality. The media has failed to acknowledge and report wrongdoing by Officials of the Court. Too many fear retribution if they come forward or demonstrate.

This particular judge stands out: Judge Carlson has broken his oath of office by violating Judicial Canons, Civil Rules of Court, and the Constitutional Rights of Alaskans.

John Grames, with limited resources, has compiled substantive documented evidence and testimony to present to a special investigator or at a hearing of your choosing. We can show at least two cases of each of the following charges: directing law enforcement officers to harrass or arrest innocent persons, removing nursing babies from their mothers by court action, giving favor to certain attorneys, illegally hiding litigants records, economically destroying families by judicial decree, setting child support payments in excess of 100% of noncustodial parents income, bringing irrelevant evidence and bias into the courtroom, and judicial violence.

Some of Judge Carlson's victims reported their horror stories to the Family Support Task Force.

It is significant that Judge Carlson served on this states Child Support Enforcement Commission in 1985, and served again on the Civil Rule 90.3 Revision Committee in 1989 that have made child support law until the present time. House Bill 472, currently in House H.E.S.G. Committee will have the effect of removing our State's child support awards system from the oligarchy of the court system and placing it in the democratic process of the Legislature.

Please note that Judge Carlson has been removed once again from hearing family law cases as a result of public pressure. The most frequent complaints against him are that he systematically violates Civil Rule 90.3 and that he resents fathers.

In response to a complaint filed with the Commission on Judicial Conduct against Judge Carlson the Alaska Supreme Court interpreted the State Constitution to mean that the court has the final disposition of complaints made to the Commission. We have no way of knowing the number of complaints that are filed against Judge Carlson, nor of any sanctions taken against him.

HB 268 was supposedly intended to open the process of investigation of judicial misconduct to the public but it passed the House without public comment where all amendments were defeated by government lobbying.

We believe Judge Carlson has the greatest number of Appeals for errors in judgement, particularly during the latter part his eighteen years on the bench. These Appeals cost the State millions of dollars, some examples go on for many years. The Supreme Court repeatedly remands them back to Judge Carlson. At least three of these victims have Appealed all the way to the United Nations Human Rights Commission in Geneva, Switzerland.

Enclosed are the record near 2000 pre-emptory challenges without a single recusal from 1979 to 1988. Did Judge Carlson finally take himself off a case voluntarily? Also enclosed are the endorsements of police officers and prosecutors regarding his last retention in 1984. He is a regular guest lecturer/instructor at the A.P.D. Academy.

We are deeply concerned that when Judge Carlson is forced into retirement he will become a Senior Consulting Judge enjoying full retirement benefits and privileges, while continuing to terrorize the unsuspecting citizens of Alaska. It is our hope that our elected representatives will take action on this serious matter and that if he is found guilty, he be made an example to prevent abuses of judicial power in the future, a warning that judges are not above the law and that we the people will not tolerate Injustice in this country.

Sincerely,  
*Steven P. Strube*  
Steven P. Strube, Director



# 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: Senate State Affairs Committee Members  
FROM: Senator Pat Pourchot  
RE: Monday, April 23 Committee Hearing  
DATE: April 21, 1990

DO NOT  
REMOVE  
AGENDA

On Wednesday, April 23 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SB 206, An Act relating to intrastate competition in telecommunications; continuing the existence of the APUC; and providing for an effective date.

Rescheduled to Wednesday, April 25

CSHB 405, Public Access to public information.

Rescheduled to Wednesday, April 25

CS HB 268 (jud), An Act relating to the Commission on Judicial Conduct and to the Alaska Supreme Court's power to discipline judges. The major provisions of this bill, sponsored by Representative Gruenberg, are:

- .the Judicial Conduct Commission would be required to hold a public hearing if it finds probable cause to proceed on an allegation of judicial misconduct. Currently, the public remains uninformed until the matter is resolved.
- .removal of unconstitutional language which allowed the Commission to reprimand judges, clarification that only the Supreme Court can sanction judges.
- .clarification that the hearing on the charges and the majority and minority report of the Commission are public.

Further Referral: Judiciary House Vote: 39 Yeas 0 Nays

SB 518, An Act relating to income eligibility for certain housing weatherization programs. Sponsored by the Rules Committee, at the request of Senator Coghill, this bill would restrict the Department of Community and Regional Affairs from considering the value of the longevity bonus or permanent fund dividends in determining eligibility for weatherization assistance. DCRA currently contracts on a community by community basis, therefore this bill would increase the number of eligible participants in a given community but due to budget constraints, the total number of people served will not increase. No further committee referral.

SB 547, An Act relating to address information required for voter registration and providing for an effective date. This bill was developed at the request of Division of Elections as a response to the Baird vs. State court decision, in which the court decided against the countability of votes cast

by voters with insufficient addresses. According to the Division of Elections, that court decision has the potential to disenfranchise between 19,000 and 25,000 rural voters in the upcoming Primary and General Elections. SB 547 clarifies the rules on which Division of Elections will determine the sufficiency of address information. No further committee referral.

SB 452. An Act repealing limitations on the Older Alaskans Commissions relating to the longevity bonus program and the Alaska Pioneers Home. Sponsored by Senator Rodey, this bill expands the powers of the OAC by repealing the statute which denies them the authority to investigate, review or undertake any responsibility for the longevity bonus program or the Pioneers' Homes. There is no fiscal impact. No further committee referral.

CS HB 244 (Fin) am. An Act relating to the frequency and content of certain state agency reports; relating to the frequency and contents of the report to the legislature on the housing assistance revolving fund; eliminating an annual oil and gas reporting and analysis requirement; and eliminating the long-term energy plan preparation and revision requirements. Sponsored by the House Finance Committee, this bill changes many state agency report requirements from an annual to a biennial basis and eliminates the annual oil and gas reporting/analysis requirement and the annual long-term energy plan. Further Committee Referral: Finance House Vote: 40 Yeas 0 Nays

JANICE =

Comm. on E.  
62M

GRAMES 277-5321  
JOHN ~~XXXXXXXXXX~~: HB 268 =  
AK. Family Support Group.

Dave Donley tried to amend. to truly open up - but Bar Association defeated.

News Release / Petition to impeach Judge Carlson

ISSUE:

> Cost per litigant

Judiciary / CS in SA = Michael ← Donley

< Open Process

- Minority Reports - dissenting member report (3) could be public
- Council should make a conscious decision (vote) on whether to go public or confidential.

• Commission very opposed to  
Donley amendments =

Steve Strube  
HK Family Support  
Group

HB 268 -  
376 - 3704 (LIS)  
S. 892 - 7760 (h)  
892-6027 (w)

How many complaints  
against Judge Carlson

→ confidential

= Bill would not  
change this  
once to hearing  
it becomes

When is hearing?

→ Monday

teleconf to Wasilla?

# State of Alaska

## Committees

CO-CHAIR, HOUSE JUDICIARY  
VICE-CHAIR, HOUSE LABOR AND COMMERCE  
HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES




P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4712  
465-4968/4986  
(SESSION)  
914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spennard, Upper Midtown Anchorage

## MEMORANDUM

TO: Sen. Pat Pourchot  
Chairman, Senate State Affairs Committee

FROM: Rep. Max F. Gruenberg, Jr. 

DATE: April 6, 1990

SUBJECT: Scheduling of HB 268, "An Act relating to the  
Commission on Judicial Conduct."

The House unanimously passed CS HB 268 (Jud) on March 30, and the bill is ready for a hearing in your committee. A sectional analysis of the bill is attached.

The bill opens the process of judicial discipline to the public, once there is a finding of probable cause that a judge has violated standards of judicial conduct. Under current law the public remains uninformed about pending disciplinary matters until they are finally resolved.

This new legislation will substantially improve the judicial discipline process, and I ask that you schedule the bill as soon as possible.

## SECTIONAL ANALYSIS

CS HB 268 (JUD)

### Section 1 [AS 15.58.050]

Conforming amendment; deletes reference to statutory subsections deleted in Section 5 of the bill.

### Section 2 [AS 22.30.010]

Requires that a quorum of the Commission on Judicial Conduct include at least one member from each of its three constituent groups: judges, attorneys, and public members.

### Section 3 [AS 22.30.011(a)]

Establishes a six year statute of limitations for inquiries by the Commission into allegations of judicial misconduct.

### Section 4 [AS 22.30.011(b)]

This section is the heart of CS HB 268 (Jud). It requires the Judicial Conduct Commission to hold a public hearing if it finds probable cause to proceed on an allegation of judicial misconduct. Only an exoneration or an informal admonition by the Commission would be private under the new language. Currently, judicial misconduct hearings are private.

### Section 5 [AS 22.30.011(d)]

AS 22.30.011(d)(2) is deleted; informal and private admonishments and recommendations for counselling by the Commission are now authorized only prior to a public hearing under revised AS 22.30.011(b) [Section 4].

This section also removes AS 22.30.011(d)(3), which authorized the Commission to reprimand judges; the Supreme Court held in In re Inquiry Concerning a Judge, 762 P.2d 1292 (Alaska 1988), that this provision was unconstitutional, and that only the Supreme Court can sanction judges.

Section 5 also authorizes the Commission to recommend to the Supreme Court that it reprimand a judge, if a more severe sanction is not warranted.

Section 6 [AS 22.30.060(b)]

Clarifies that although the Commission's investigative and other files remain confidential after formal charges are filed, the hearing on the charges and the majority and minority report of the Commission are public. The deliberations of the Commission, like jury deliberations, are confidential.

Section 7 [AS 22.30.068 (NEW)]

Provides that a member of the Commission may submit a minority report at the conclusion of a hearing on formal charges; the minority report may be sent to the chief justice, the attorney general, and the chairs of the legislature's judiciary committees.

Sections 8 and 9 [AS 22.30.070(b), (c)]

These sections authorize the Supreme Court to reprimand judges, to conform with changes to AS 22.30.011(d) in Section 5 of the bill; there the Commission's authority to reprimand judges was deleted, and it was given the authority to recommend that the Supreme Court take that action.

Also, the reference to AS 22.30.011(e) is deleted, because that subsection is repealed in Section 11 of the bill.

Section 10 [AS 22.30.080(2)]

The definition of "judge" is amended to make it clear that the Commission's jurisdiction includes part-time and temporary judges.

Section 11 [repealers]

The repealed provisions outlined the procedures for reprimands by the Commission; the Commission's authority to reprimand judges was declared unconstitutional, and is deleted in Section 5 of the bill.

# nothing else, maybe the power-sated judiciary got a reality check

A couple of dozen angry people showed up to testify at the Alaska Judicial Council's first-ever public hearing on judges on the ballot. Alaska's judges aren't elected, they're appointed. Every so often voters decide whether to keep a judge on the bench. In practice a judge loses about as often as Perry Mason. The council comes out with a judge only slightly less often, arriving at its recommendation in roughly the same manner a private investigator expels a member. These balls are routinely ignored by the voters. The council is trying to change by its all-new citizen advisory committee one of the openings. It walked a parade of people with a beef against the court system.



**mike  
doogan**

As at any public hearing, a couple of people seemed to be receiving radio signals from a great distance. At least a couple of others were full-time, multisubject malcontents.

But the majority of those who testified were mad at

Superior Court Judge Victor Carlson.

Carlson has spent most of his time on the bench dividing the spoils of failed marriages. Not surprisingly, he has made enemies. The bulk of the testimony came from men who thought they'd lost because Carlson didn't play fair.

Among the most strident were men who said they belonged to an outfit called the Alaska Family Support Group. They get families under the tent by arguing that having to pay what Carlson ordered for their former families makes life tough for their current families.

They want a real witch hunt — a legislative investigation and impeachment of Carlson. They had a lot to say about their rights, but almost nothing to say about

their responsibilities.

Some of them said ridiculous things. "All my rights were violated," one man said. "We've got a guy who's 10 times worse than Noriega right here in our courthouse," said another. My favorite came from Wild Bill Nelson: "There's a civil war coming. If you stand in our way we're going to mow you down. Thank you." That Bill may be a social misfit, but he's a polite social misfit.

Some also indulged in the sort of rumormongering about Carlson's personal life that could give McCarthyism a bad name.

As an information-gathering tool the hearing was useless, the usual people saying the usual things. It added little to the store of reliable information about Carlson's honesty, fairness

and knowledge of the law, the issues on which his fitness to continue on the bench should be decided.

The hearing might have had some value as a chance to dip judges, however briefly, in the chilly waters of the world outside the courthouse. Inside the courtroom, judges are little emperors, treated with deference and respect whether they deserve it or not; the testimony might have been a useful reminder that not everybody thinks they're the bee's knees.

Judges need to know this because they have a hand in manufacturing these enemies. When people end up in court, what usually happens is the legal system takes their money and puts them through a complicated, frustrating and mysterious pro-

cess that spits them out poorer, confused and often without what they wanted: vindication and victory.

That's bad enough when the case is some business deal gone bad. But when it's domestic warfare — a battle over sex, power, children and money — the combatants can be as tenacious as pit bulls and about as reasonable.

"These are lives that judges deal with," one man said. "After a case is over, we all have to deal with it."

Judges should know firsthand, as the rest of us do, that some people deal with it by getting mad. By finding someone else to blame. By trying to get even.

□ Mike Doogan is an Anchorage Daily News columnist.

MEMO TO FILE

Date: April 23, 1990

Re: Phone Call from John Grames

Mr. Grames phoned to express his extreme displeasure of Pat, Susie, and the Senate State Affairs Committee's handling of HB 268, specifically regarding the non-adoption of Rep. Donley's amendments. Grames was also extremely frustrated that the Committee did not ask any questions of Marla Greenstein. (Refer to notes in State Affairs' HB 268 bill file.)

Mr. Grames also wanted to reiterate his opposition to the reappointment of Sandra Hendricks to the Human Rights Commission. He feels she, as well as Bev Ramos, the Alaska Women's Lobby, the Women's Commission, and the Human Rights Commission are all anti-men and feels therefore that no support to be given to these organizations or individuals.

cc: State Affairs HB 268 bill file  
Sandra Hendricks Reappointment File  
Misc. Constituent Correspondence File  
Chron

CSHB 268 (Jud)

Amendment No. 1 by Donley:

Page 4, lines 2 - 17:

Delete all material and insert:

" \* Sec. 6. AS 22.30.060(b) is amended to read:

(b) All proceedings, records, files, and reports of the commission are confidential and disclosure may not be made except

(1) upon waiver in writing by the judge at any stage of the proceedings;

(2) if the subject matter of the fact of the filing of charges has become public, in which case the commission may issue a statement in order to confirm the pendency of the investigation, to clarify the procedural aspects of the proceedings, to explain the right of the judge to a fair hearing, or to state that the judge denies the allegations; or

(3) that when the commission first meets to consider an allegation and has an opportunity to vote on the question of confidentiality, the proceedings, records, files, and reports of the commission become public unless the commission votes to keep the proceedings, records, files, and reports confidential, and at least one public member votes in favor of confidentiality; if the commission imposes confidentiality under this paragraph, the proceedings, records, files, and reports remain confidential until the commission files formal charges, if any, on the allegation; upon filing of formal charges, all proceedings, records, files, and reports of the commission relating to the case are public except for deliberations of the commission concerning the case, which remain confidential; the commission's ultimate decision and recommendation to the supreme court, if any, including any minority report, are public (UPON FILING OF FORMAL CHARGES, IN WHICH CASE ONLY THE CHARGES SHALL BECOME PUBLIC)."

Representative Donley moved and asked unanimous consent that Amendment No. 1 be adopted.

Representative Goll objected.

The Speaker placed a call of the House on CSHB 268 (Jud) and lifted the call.

CSHB 268 (Jud)

Amendment No. 1 to Amendment No. 1 by Donley:

In paragraph (3), lines 7 and 8:

Delete "and at least one public member votes in favor of confidentiality"

Representative Donley moved and asked unanimous consent that Amendment No. 1 to Amendment No. 1 be adopted. There being no objection, it was so ordered.

The question being: "Shall Amendment No. 1 as amended be adopted?" The roll was taken with the following result:

CSHB 268 (JUD) AMI AM

Yeas: 16 Collins, Cotten, Davis, C.,  
Donley, Furnace, Hanley, Hoffman,  
Hudson, Jacko, Larson, Leman,  
Martin, Menard, Shultz,  
Swackhammer, Zawacki

Nays: 22 Boucher, Boyer, Brown, Davidson,  
Davis, M., Elliott, Finkelstein,  
Foster, Goll, Gruberberg,  
Grussendorf, Koppen, Kubina,  
Miller, Navarre, Pettyjohn,  
Phillips, Rieger, Sharp, Taylor,  
Ulmer, Wallis

Excused: 1 Barnes

Absent: 1 MacLean

Sharp changed from "yea" to "nay".

And so, Amendment No. 1 as amended was not adopted.

Amendment No. 2 was not offered.

Amendment No. 3 by Donley:

Page 4, line 25, following "committees.":

Add:

"If three members of the commission agree, they may submit a report recommending a different course of action by the commission at any time to the chief justice of the supreme court, the attorney general and the chair of the senate and house judiciary committees."

***HB***

***311***

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER CSHB 311

SPONSOR Cato (Kubwa)

BILL TITLE <sup>Construction of</sup> Portage to Whittier and Bradfield Resource Roads

DATE REFERRED 5-8-89

HEARING SCHEDULED 1-29-90

FISCAL NOTE PREPARED - Rep: 1-23-90 Cliff Groh - 2300

SPONSOR CONTACTED ✓ Monty Kubina - Kubwa  
✓ Charlie Miller -

INTERESTED PARTIES CONTACTED

\* ✓ Senator Jones: will testify - 3743

\* Rep. Kubina:

✓ Joe Hayes: 586-2660

\* ✓ Chugach AK. Corp: Edgar Blatchford (sp?) will testify

✓ Cliff Groh: 2300

✓ DOT - Dennis Nottingham (consulting engineer)

✓ Szymanski

✓ Larry Hole - R.R.

✓ Dept. of Rev.

✓ Whittier: TELECONFERENCE

Bridge #:

ANch LIO

562-2882

Rep. Robin Taylor: Mary

OFF-NET

800-478-2882

OTHER

SENATE COMMITTEE REPORT

FURTHER

RESOURCES  
FINANCE

DATE TURNED INTO OFFICE \_\_\_\_\_

5/8/89  
Mr. President:

STATE AFFAIRS Committee considered CSHB 311 (TRSP)

approving the issuance of revenue bonds for construction of a road from Portage to Whittier and of the Bardfield River resource road; efd and recommended

- replace with \_\_\_\_\_ CS \_\_\_\_\_ )  same title
- or adopt \_\_\_\_\_ CS \_\_\_\_\_ )  new title
- attached amendment(s) and  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

**FISCAL NOTE(S)**  zero  fiscal impact  appropriation no FN  
 new  updated  previous  
 same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

*Al Adams*  
 \_\_\_\_\_  
*Jan. Fink*  
 \_\_\_\_\_  
*Tim Kelly*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

OTHER RECOMMENDATIONS

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Chair: *[Signature]* signature and recommendation

Committee Backup attached

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 311 (Trans)  
PUBLISH DATE: 5/04/89

REQUEST: FISCAL NOTE

Revision Date: 2/05/90  
Title: Revenue Bonds for Portage to Whittier  
and Bradfield River Roads  
Sponsor: House Transportation  
Requestor: Kubina

Agency Affected: DOT&PF  
BRU:  
Components:

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
CONTRACTURAL	100.0	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	100.0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

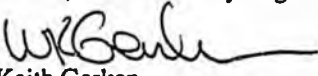
FUNDING: (Thousands of Dollars)

GENERAL FUND	100.0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	100.0	0	0	0	0	0

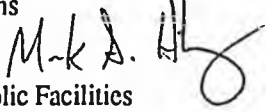
POSITIONS:

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

ANALYSIS: Funding is to determine the financial feasibility of constructing and operating a Portage to Whittier and Bradfield River Resource toll road under authority of Alaska Statutes 37.15.610-37.15.760, as amended by Legislation enacted in Chapter 165, SLA 1988.

Prepared by:  W. Keith Gerken  
Division: Deputy Commissioner, Operations

Phone: 465-3900  
Date: Feb. 5, 1990

Approved by Commissioner: Mark S. Hickey   
Agency: Department of Transportation and Public Facilities

Date: 2/5/90

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

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: State Bond Committee  
Title: \$49,300,000 Revenue Bonds for Portage to Whittier and Bradfield River Roads BRU: \_\_\_\_\_  
Sponsor: Senate Transportation Components: \_\_\_\_\_  
Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	4,798.7	4,798.7	4,798.7	4,798.7
<b>TOTAL OPERATING</b>	0	0	4,798.7	4,798.7	4,798.7	4,798.7
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	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	4,798.7	4,798.7	4,798.7	4,798.7
<b>TOTAL</b>	0	0	4,798.7	4,798.7	4,798.7	4,798.7

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: Fiscal effect for FY 90 is zero.

\$2,628,100 annual debt service for Portage to Whittier Road and \$2,170,600 annual debt service for Bradfield River Road on \$27 million and \$22.3 million revenue bonds respectively. 30 year maturities and 9 percent interest estimated on bonds. Fund source is Toll Facilities Construction Fund for FY 92-93 and Toll Facilities Revenue Fund thereafter. Construction assumed to begin FY 93.

Prepared By: Milt Barker MB  
Division: Treasury

Phone: 465-2350  
Date: \_\_\_\_\_

Approved by Commissioner: [Signature]  
Agency: Department of Revenue

Date: Jan 31, 1990

Distribution (by preparer):

Legislative Finance  
Legislative Sponsor

Requestor  
Office of Management and Budget  
Impacted Agency(ies)

# Alaska State Legislature


While in Session  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
465-4859

P. O. Box 2463  
Valdez, Alaska 99686  
835-2695

Representative Eugene Kubina

## MEMORANDUM

TO: Sen. Pat Pourchot, Chair  
Senate State Affairs

FROM: Rep. Gene Kubina 

DATE: January 15, 1990

RE: Scheduling of HB 311

---

I would request that HB 311, "An Act approving the issuance of revenue bonds for construction of a road from Portage to Whittier and of the Bradfield River resource road; and providing for an effective date", be scheduled in your committee in the near future.

Thank you for your consideration of my request.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •



CS HB 311.txt

TELECONFERENCE; WHITTIER, ANCHORAGE

CS HB 311, An Act approving the issuance of revenue bonds for construction of a road from Portage to Whittier and of the Bradfield River Resource Road and providing for an effective date.

NOTIFIED; \*Indicates will testify

\*Representative Kubina

\* Senator Jones

\*Chugach Alaska Corporation: ~~Edgar Blatchford (SP?)~~ John Christenson

\*DOT/PF: Keith Gerken, Deputy Commissioner

Dennis Nottingham, consulting engineer for Whittier access

\*Div. of Tourism: Dana Brockway

Dept. of Revenue: Cliff Groh

Senator Syzmanski

AK. Railroad: Larry Hole

Representative Robin Taylor

NOTES;

1. Several problems with this bill:

A. Senator Jones lost the staff person who researched and developed the bill. Nobody in that office has a clue about the Bradfield Road. Couldn't answer the question of whether the \$22,300,000 figure has a cushion in it to attract investors, didn't have an update on current Canadian plans, etc.

B. DOT says that the Canadians have cooled to the American plan. No agreement has been reached with them.

2. Rep. Kubina hopes for a positive hearing for the Whittier access, regrets that Cato agreed to add BRadfield to the bill.

# Alaska State Legislature



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335-2695

Representative Eugene Kubina

During the past 4 years, a great deal of time has been spent researching the feasibility of providing access to Whittier. It seems incredible that here sits a town, located approximately 9 miles from Portage, that is virtually inaccessible other than by limited rail and ferry service. Yet, this community provides access to Prince William Sound and its tremendous resources and recreational/tourism opportunities. This, coupled with a large, year round, "ice free" deepwater port make the possibilities for development of this area unlimited.

Whittier is a unique community. The actual size of the City of Whittier is less than 6 acres. The population is approximately 350 people. In 1983, the Department of Natural Resources transferred 600 acres to the city. This area remains undeveloped because no funding has been identified to provide access to the area.

The Department of Transportation has looked at numerous alternatives for access to Whittier. Obviously, several of the alternatives reviewed were not cost effective.

Currently, the most feasible alternative appears to be the construction of a single lane access road. This road would be constructed around the first tunnel and through the second tunnel. The existing railroad tracks would be overlaid thereby providing joint vehicular and rail use. The current width of the tunnel is 14' 6". Modifications would be required in periodic places to allow for 6' turnout and pulloff areas in case of emergencies or vehicle breakdowns. These turnout areas would be 25 feet wide X 100 feet long. Emergency telephones would be placed every half mile along

the tunnel. The cost to construct this road is estimated to be between \$17-20 million.

With federal transportation dollars dwindling, it is apparent that innovative financing methods will be necessary to fund this project. House Bill 311 provides for the issuance of up to \$27 million in revenue bonds for construction of a road from Portage to Whittier. This amount represents a 35% cushion coverage ratio. As revenue bonds are stand alone bonds, the project must be self sustaining. Therefore, this coverage factor is necessary to make these bonds attractive and secure to investors.

Certain safeguards currently exist in Alaska Statutes to ensure that no project is undertaken unless it has been scrutinized carefully. AS 37.215.730 states that no toll facility can be constructed unless the following conditions are met:

- a. DOT submits to the governor and legislature a feasibility study that finds the project is financially feasible and able to produce revenue adequate to repay the bonds.
- b. If financing in addition to revenue bonds is required to finance the toll facility, the department submits to the governor and legislature a finance plan that includes an estimate of the total cost of the toll facility and a description of the sources of money that will be used to finance the total cost of the toll facility; and
- c. The office of management and budget reviews the feasibility study and the finance plan, if required, and reports its finding and recommendations to the governor and legislature not later than 90 days after the study and plan are received by the office.

In summary, House bill 311 identifies the funding mechanism for the project. This is the first step, however, unless all the above conditions are met, the project will not be deemed feasible.

We need to look at new, innovative methods of financing our transportation needs. I strongly feel that state toll facilities are a real alternative to provide us with the funds necessary to continue to build necessary basic infrastructure. We need to take this first step to provide DOT with the necessary direction and authority to pursue this project as the states first state toll facility

# 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 Kelly  
FROM; Senator Pourchot  
RE; Request for current rates on Whittier Train Shuttle  
DATE; February 10, 1990

Alaska Railroad Whittier Shuttle Rates: ONE WAY as of 2/9/90

	<u>SUMMER</u>	<u>WINTER</u>
Vehicle under 24'	\$32.00	\$24.00
Vehicle, includes RVs, Cars with trailers, under 40'	\$43.00	\$43.00
Vehicle over 40'	\$65.00	\$65.00
Tour Buses	\$65.00	\$65.00
Motorcycle	\$10.50	\$10.50
Kayaks, Canoes	\$10.50	\$10.50

Rates listed above include driver only.

### General Passenger Rates:

Adult vehicle occupants, other than driver: \$5.00  
Foot Passengers: \$5.00  
Children/2 yrs to 12 yrs: (foot or in car): \$2.50

Books of tickets are available which offer an approximate savings of 10% per trip.

For more information, contact the Alaska Railroad: 265-2502

cc: State Affairs Committee Members  
Representative Kubina

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOHD, GOVERNOR

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

November 30, 1982

Gerald L. Wilkerson, C.P.A.  
Legislative Auditor  
Legislative Audit Division  
Legislative Affairs Agency  
Pouch W  
Juneau, Alaska 99811

Honorable Carole J. Burger  
Commissioner  
Department of Administration  
Pouch C  
Juneau, Alaska 99811

Re: The dedicated funds  
prohibition applied to various  
funds and accounts. Our Files  
Nos. J66-785-81 and J66-649-80

Dear Mr. Wilkerson and Commissioner Burger:

You have both asked for a broad review of the application of the constitutional dedicated funds prohibition to various state funds and accounts. Alaska Const. art. IX, § 7. Because of the factual complexities presented by the various funds, accounts, and appropriations and because of the paucity of judicial precedent, we are not able to advise you with absolute certainty regarding the constitutionality of state practices. However, some of the issues raised by your request may be resolved in litigation which is now pending concerning the administration of

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Honorable Carole J. Burger  
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certain appropriations and funds by the Alaska Power Authority. 1/

In response to your request, we have identified and analyzed several categories of funds, accounts, and transactions which raise dedication questions. Our approach in dealing with these questions will be to first discuss the purpose and meaning of the dedication prohibition. We will then focus on the implications of a recent Alaska Supreme Court case that deals specifically with the dedicated funds prohibition. Next we will consider the probable legal status of several general categories of funds, accounts, and appropriations which raise dedication questions. Lastly, we will consider the dedication prohibition in reference to specific funds and appropriations.

We should point out that the advice given in this opinion could have a significant effect upon the state budget. This results from the recent adoption of Article IX, section 16 of the Alaska Constitution (the spending limit). Under the reasoning of this opinion, it may be that income earned by a loan fund or public enterprise must be appropriated to that fund or

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1/ The legal issues in this litigation are the validity of the deposit of interest and principal payments on loans in a revolving loan fund and of the appropriation to the Power Development Fund of interest to be received on specific amounts appropriated to that fund (§ 1 ch. 90, SLA 1981 as reenacted by § 69 ch. 69 SLA, 1981 and amended by § 236 ch. 141, SLA 1982.). Trustees for Alaska, et al. v. State of Alaska and Alaska Power Authority, No. 3AN-492-82 Civ. (Alaska Super., Jan. 21, 1982)

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enterprise if that income is to be retained by it. If the Alaska Supreme Court adopts that reasoning, the necessity for these appropriations would have to be considered by the administration and the legislature in developing a state budget which conformed to the spending limit. This concern would also become important if independent authorities for operation of entities like the State Ferry System or the Alaska Railroad were to be considered.

I. THE PURPOSE OF THE PROHIBITION

Article IX, Section 7 provides:

DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article [establishing the Permanent Fund] or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

There are essentially two views of the meaning of this provision. Under the first interpretation the dedicated funds prohibition would require that every dollar received by the state be deposited and remain unrestricted in the general fund until it is withdrawn pursuant to an appropriation authorizing the expenditure of a specific dollar amount for a specific pur-

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pose (absent a contrary federal requirement or a statutory dedication which existed prior to ratification of the Constitution). This is known as the strict interpretation view.

Under the strict view, the phrase "proceeds of any state tax or license" would encompass every dollar paid to the state (or to a public corporation or authority established by the state) for whatever purpose. State loan repayments (both principal and interest), enterprise receipts (e.g., airport lease revenues, parking garage receipts, etc.), program receipts (e.g., Ferry System ticket sales, University of Alaska tuition receipts, etc.), as well as all other revenues (e.g., taxes, natural resource revenues such as royalties, etc.), would be required to be deposited in the state treasury and retained there until the expenditure is authorized by appropriation of a specific dollar amount.

An argument can certainly be made that this is the proper interpretation of the dedicated funds prohibition. As set out in 1975 Op. Atty. Gen. No. 9 at 2 (Alaska May 2, 1974), "Section 7 of Article IX had two interrelated purposes: (1) to prevent any future dedication of revenues for special purposes [i.e., 'earmarking'] and (2) to prevent the creation of new special funds separate from the general fund." The rationale underlying each of these two purposes is "that the widespread existence of dedicated revenues lodged in special funds deprives

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both the governor and the legislature of 'any real control over the finances of the state.'" Id. at 3 (citation omitted). Requiring all monies received by the state to be deposited into the general fund clearly would satisfy both interrelated purposes of the prohibition. The strict interpretation view of the dedication prohibition would preclude the use of public monies to establish a standing or revolving loan fund or any other program which would be self-sustaining. 2/

However, a second approach in interpreting the meaning of Article IX, section 7 is also very plausible. Under this view, the dedication prohibition is not to be construed to require a blanket prohibition of self-sustaining programs set up by the legislature. As noted in 1975 Op. Atty. Gen. No. 9 at 6-8 (Alaska, May 2, 1975), the constitutional framers substituted the phrase "[t]he proceeds of any state tax or license" for the phrase "[a]ll public revenues" to avoid having to state a number of intended exceptions to the prohibition on dedicated funds. Examples of these exceptions were pointed out in a January 4, 1956, 3/ memorandum by the Public Administration Service (PAS) to

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2/ Of course, even under the strict view, there would be some kinds of monies received by the state which it could not, for independent legal reasons, deposit into the general fund. These monies would include trust funds, restricted gifts, and funds subject to restrictions by contract.

3/ The actual date shown on the memorandum is "January 4, 1955". However, considering the timing of the constitutional convention, this was certainly a typographical error.

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the Constitutional Convention: "pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts which the state might collect on behalf of local government units." 4/

Some of those examples were specifically mentioned by the court in State v. Alex, 646 P.2d 203 (Alaska 1982), which held that the phrase "proceeds of any state tax or license" was to be broadly construed to include all sources of public revenues. The court noted that the drafters intended to permit the establishment of certain special funds, (e.g., sinking funds for the repayment of bonds), but to prohibit the earmarking of any special tax to such a fund. Alex, supra at 210. The court did not elaborate on the application of the dedicated funds prohibition in these situations.

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4/ The Public Administration Service prepared a publication entitled "Alaska Statehood Commission, Constitutional Studies (1955)" at the request of the Alaska Territorial Legislature for use at the constitutional convention. Ch 108 SLA 1949. This publication collected research papers on other state constitutions. Copies were mailed to all delegates, and it was often referred to in the convention proceedings. Alaska Statehood Committee, "Handbook for Delegates to the Alaska Constitutional Convention" 4 (1955). Referred to in State v. Alex, 646 P.2d 203, 209 n. 5 (Alaska 1982). The memorandum of January 4, 1956 contained comments by the PAS on the proposed draft of the Finance and Taxation article. Constitutional Convention Finance Committee minutes, Jan. 13, 1956.

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II. MEANING OF THE PHRASE "PROCEEDS OF ANY STATE TAX OR LICENSE"

There has been continuing controversy over the proper construction of the phrase "proceeds of any state tax or license." In a number of earlier opinions, this office concluded that the dedicated fund prohibition did not reach all public revenues but, under its plain language, only the actual "proceeds of any state tax or license." See 1969 Op. Atty. Gen. Nos. 3 (Alaska, April 4, 1969) and 5 (Alaska, April 15, 1969); and 1959 Op. Atty. Gen. No. 7 (Alaska, March 11, 1959). This conclusion also was reached by the Division of Legal Services in the Legislative Affairs Agency. See September 1, 1977 memorandum from Bill G. Berrier, Director, to Subcommittee on Alaska Renewable Resources Development Fund of Alaska Permanent Fund (House).

Those opinions all concluded that the prohibition did not reach revenues derived from the disposal of state-owned natural resources. Given this conclusion, it followed that the legislature was free to dedicate all or a certain portion of such revenues to specific purposes. An example of this is found in AS 37.11.020, which requires that not less than five percent of state mineral lease receipts be deposited in the Alaska Renewable Resources Development Fund. (This statutory dedication was the subject of Mr. Berrier's September 1, 1977, memorandum).

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On the other hand, 1975 Op. Atty. Gen. No. 9 at 24  
(Alaska, May 2, 1975) reached the opposite conclusion:

Section 7 of Article IX of the state Constitution can be given its intended effect and serve its repeatedly expressed purpose only if the words "proceeds of any tax or license" are interpreted to mean what their framers clearly intended, i.e., the sources of any public revenues.

Accordingly, it is our conclusion that the dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever is limited by the state Constitution to those existing when the Constitution was ratified or required for participation in federal programs.

(Emphasis added.)

In State v. Alex, 646 P.2d at 210, the Alaska Supreme Court adopted the position set out in 1975 Op. Atty. Gen. No. 9 (Alaska, May 2, 1975). 5/ It now is clear that the term "proceeds of any state tax or license" is to be construed broadly to reach all public revenues, including public revenues from the development of state-owned natural resources, and not just the proceeds of taxes and license fees.

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5/ Alex involved a challenge by commercial fishermen to the collection by a private aquaculture association of a special assessment authorized by statute and imposed on the sale of salmon. The court held that the statute improperly delegated the legislature's taxing authority, and that the assessment constituted "proceeds of a state tax or license" within the meaning of Article IX, section 7. State v. Alex, 646 P.2d at 210, 213.

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After the decision in Alex we can now reach some definite conclusions regarding some of the funds and accounts you have asked us to review. The answers to other questions, however, are not as clear.

### III. IMPLICATIONS OF THE ALEX DECISION

There is no question that the dedicated funds prohibition in Article IX, section 7 flatly prohibits the legislature from dedicating future unrestricted general revenues to any particular purpose unless the dedication is required for participation in a federal program or the dedication existed before ratification of the Constitution. Alex, supra at 208-210. This confirms the view expressed in our April 1, 1981 memorandum opinion to the legislative auditor that the requirement in AS 37.11.020 that not less than five percent of state mineral revenues be placed in the Alaska renewable resources development fund is unconstitutional. This would be true of any statutory requirement that a specified percentage of revenues derived from the development of state-owned resources be deposited in a fund or earmarked for a particular purpose.

The Alex decision, however, does not provide answers to a number of additional questions. For example, does the dedicated funds prohibition apply (1) to money received through the sale of bonds (either general obligation bonds of the state or

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revenue bonds of a public corporation); (2) to receipts from operation of facilities constructed with bond proceeds; or (3) to interest or investment income earned on money appropriated for a specific purpose? In short, are there any exceptions to the prohibition beyond those expressly set out in the Constitution? The section immediately following discusses this question.

#### IV. POSSIBLE EXCEPTIONS TO THE DEDICATED FUND PROHIBITION

##### A. Implied Exceptions.

An early draft of what is now Article IX, section 7 (but which was at that time numbered section 8) read as follows: "All public revenues shall be deposited in the state treasury . . ." Subsequent to this early draft, the Committee on Finance and Taxation of the Constitutional Convention requested comments from the Public Administration Service on this wording. The PAS responded with the January 4, 1956 memorandum in which it warned that a strict interpretation of section 7 (then section 8) would prohibit the segregation of state money without regard to the source. The PAS then suggested that certain exceptions be identified in section 7. These exceptions included pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts

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which the state might collect on behalf of local government units.

After considering the PAS memorandum, the committee deleted the phrase "all public revenues shall be deposited ..." and substituted the phrase "The proceeds of any state tax or license ...". 3 Alaska Const. Conv. Proceed. at 2361. The record of the committee debate makes it clear that the purpose of this change was to meet the problems raised by the PAS in its January 4 memorandum. See 1975 Op. Atty. Gen. No. 9 at 8 (Alaska, May 2, 1975).

Given this drafting history, a very good case can be made that the present language of Article IX, section 7 must be read to include certain implied exceptions, such as those that are set out in the January 4 PAS memorandum, i.e., pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state-local cooperative programs, and tax receipts which the state might collect on behalf of local government units. We believe this implied exception approach is the better interpretation of the dedicated fund prohibition and would be adopted by the Alaska Supreme Court if the question is presented to it.

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B. Dedication of Money to Specific Purposes on a  
Continuing Basis When Appropriated

A question of the proper application of the dedicated funds prohibition arises when money is appropriated to a revolving loan fund or other special reserve fund or account. Revolving loan funds provide for the return to the fund of repayments by borrowers of the principal (and frequently the interest on that principal) 6/ which was loaned to them from the fund so that new loans can be made on a continuing basis. Special reserve funds involve essentially the setting aside of money for certain specified future needs or conditions which may or may not occur. 7/ When this is done, it might be argued that the legislature has made an impermissible dedication with respect to the future use of the money placed in those funds and accounts.

We believe the better view is that the dedication prohibition does not apply to money once appropriated by the legislature, regardless of whether the appropriation contemplates that the money will be expended. Usually appropriations authorize money to be spent. In other cases, however, the legis-

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6/ We discuss the dedication of interest earned by revolving loan funds and other separate funds and accounts in the next portion of this opinion which begins below at p. 14.

7/ The "Rainy Day Account," AS 37.05.179, is an example of such an account.

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lature may prefer to establish by general law a continuing loan program and finance it through a one-time appropriation or to reserve money in a special fund or account for future use for limited purposes. A strong argument can be made that money once appropriated, regardless of the mechanism utilized, loses its character as revenue for the purpose of the dedicated funds prohibition because the purpose of the prohibition, i.e., that the legislature retain control over state revenues, has been satisfied.

Under this reasoning there would be no unlawful dedication involved in the return to a revolving loan fund of principal payments on loans. The initial appropriation would suffice to authorize the use of that money for other loans until the legislature reappropriates the unobligated assets of the fund or abolishes the fund.

Support for this position is found in the Alaska Supreme Court's analysis in the Alex case. In Alex, the court took note of the drafting change of Article IX, section 7 referred to earlier. This change, said the court, "did not seek to exempt some sources of revenue from the prohibition, but was intended instead to allow necessary dedication of funds once they were received and placed in the general fund." State v. Alex, supra at 210.

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The Alaska Supreme Court has thus recognized that the dedication prohibition of Article IX, section 7 does not operate to prohibit all dedications whatever their nature. Rather, the court seems to be saying that Article IX, section 7 must be read to allow certain necessary dedications of money by the legislature after that money is received and placed in the state treasury (i.e., general fund). This analysis by the Supreme Court gives support to the argument that the dedication prohibition does not apply to money once it has been lawfully appropriated from the general fund and that the legislature can, without violating Article IX, section 7, create "necessary dedications" out of that money.

C. Income Generated by Specific Funds or Accounts

A question separate from that just discussed arises concerning the application of the dedicated fund prohibition to the interest or other income earned by money appropriated to revolving funds and other funds and accounts. Is that derivative income revenue which, under the prohibition, must be deposited in the general fund, or may it accrue directly to the fund or account which "earned" it, increasing the amount of money in that fund or account which may be spent without further appropriation?

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We are advised by the Department of Administration that the National Committee on Governmental Accounting has defined a fund to be:

A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

Municipal Finance Officers Association of the United States and Canada, "Governmental Accounting, Auditing, and Financial Reporting," 1980, Appendix B.

From the point of view of generally accepted accounting principles, then, income generated by a fund accrues to that fund unless a transfer is authorized. Economic theory also leads to that result, arguing that the interest or investment income on a particular fund is simply an increase in the value of the fund which offsets inflation and reflects the gradual growth of our economy. Under either approach, such derivative income ought not to be considered revenue subject to the dedicated funds prohibition.

Derivative income such as interest and investment income is not a traditional source of public revenue. It is generated by public revenue which has been received and appropriated and would not be generated if the legislature had

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simply spent the money rather than appropriated it to a separate fund. Thus, a statutory dedication of the interest or investment income of a separate fund would not impair the ability of future legislatures to control the spending of general revenues. Rather, it would create a new pool of resources to be used under the statutory guidelines applicable to a particular fund until a future legislature amended or repealed those guidelines. There is no indication in the minutes of the Constitutional Convention that the drafters considered the treatment of separate funds which are endowed in this manner.

A difficulty that arises from the view that the dedicated funds prohibition is not applicable to interest or investment income on separate funds is that it permits steadily increasing amounts of money to be received and used by state departments and agencies without legislative control through the annual budget process. This is precisely the problem posed by the dedication of revenue sources which the drafters sought to avoid. For this reason, while we are not certain about the likely outcome, we doubt that a blanket exception for derivative income would be approved by the courts.

After all, the Alaska Constitution was not written for accountants and economic theorists. Although not expressly addressed by them, the framers were very much aware of the boom-bust cycle of Alaska's economy. In fact, a driving force

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behind statehood was the desire of Alaskans themselves to be able to manage the income derived from those brief periods -- as Prudhoe Bay bears witness -- when the state may receive enormous sums of money which are then immediately available for expenditure or placement, by appropriation, into a variety of funds and accounts for various permissible purposes. Depending on the number and size of those funds and accounts, the interest earned on the money placed in them could itself be substantial and would almost certainly be of a magnitude which is far greater than that likely envisioned by the National Committee on Government Accounting in the above-quoted standard. Moreover, the significance of that interest income in properly managing the state's budget leads us to the conclusion that our framers would have considered it to be within the dedicated fund prohibition. As we have indicated, however, the answer to this question is not free from doubt. Consequently, until the question is ruled on by the courts, we will defend legislative action dedicating, by general law, derivative income to the funds which "earned" them.

In the absence of valid general law dedications of derivative income, we believe there would still be a way to maintain legislative control over revenues through the budgetary process while achieving the efficient accounting organization provided by separate funds. This would be if the legislature appropriated to the separate fund for a fixed period the amount

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of interest or investment income received by that fund. Since each legislature has implicit budgetary authority for a maximum period of only two years, this practice would not impair the ability of future legislatures to dispose of those derivative revenues. Under this line of reasoning, the interest on a loan fund or other separate fund is public revenue which must be transferred to the treasury, unless the fund is authorized by appropriation to retain it for a specific period. Although it may be possible to argue in favor of a longer period, our recommendation is that these appropriations of derivative income to the fund which "earns" them be made annually, for each fiscal year.

D. Appropriations Stated in General Terms, Rather than Specific Amounts.

The annual budget has traditionally included certain appropriations not stated in specific dollar amounts but rather in terms of money to be received from certain sources during the fiscal year. Such an appropriation, for example, would authorize the risk management division of the Department of Administration to spend the anticipated proceeds from any insurance settlement

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or judgment arising from the damage or loss of state property. 8/  
This practice ensures effective legislative control over state finances while, at the same time, it provides for budgeting flexibility which is especially useful for programs like risk management, the needs of which are necessarily unpredictable.

We have consistently advised that an appropriation is valid if it states a public purpose, has a source, states or implies a time period, and states an amount which is ascertainable by reference to specified information. Under this view a "revolving" loan fund could be established and operated, even if both principal and interest payments on loans are considered to be revenues which may not be dedicated, as long as there is an annual appropriation to the fund of all principal and interest payments received by the fund during the fiscal year. The fund would continue to revolve as long as it was included in the budget.

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8, See, for example, Sec. 7 ch. 113, SLA 1978 which provides:

Amounts equivalent to the amounts to be received in settlement of insurance claims for property losses are appropriated from the general fund to the affected agency for the purpose of replacing the facility or service lost as a result of the incident giving rise to the insurance claim.

Under this language, the state could undertake immediate repair or reconstruction of a school, maintenance facility, or other property damaged by fire or other cause covered by insurance without having to wait for actual settlement and payment by the insurer.

Mr. Gerald L. Wilkerson  
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The practice of appropriating to a separate fund an amount to be ascertained by reference to receipts from a specified source during a definite period accommodates the need and desire of each legislature for budgetary flexibility without impairing the ability of future legislatures to control and dispose of public revenues. In fact, since the legislature maintains control of the appropriation by means of the budget, it could be argued that this practice does not even create a dedication in the first place since a true dedication must function to take control away from the legislature. If legislative control is present, then a dedication does not exist.

We do not think that this practice violates the dedication prohibition.

V. APPLICATION OF DEDICATION PROHIBITION TO SPECIFIC FUNDS, ACCOUNTS AND APPROPRIATIONS

We have identified the following categories of funds, accounts, and appropriations which raise dedicated funds questions.

A. Allocation of a revenue source by statute to a fund or account from which it may be withdrawn only for limited purposes by appropriation.

1. Tobacco Tax (School) Fund (AS 43.50.140). This fund existed before ratification of the Alaska

Constitution and is therefore authorized to continue under Article IX, section 7. This tax and dedication have not been changed, but the legislature has imposed an additional tax on cigarettes which is deposited in the general fund. Although we have issued several opinions on the subject, there has been no judicial review, and it remains unclear to what extent the legislature may change the dedication or the underlying revenue source within the limit of "continuing" the dedication. 9/

2. Fish and Game Fund (AS 16.05.100 et seq.). The dedication of proceeds of fishing and hunting licenses to the operation of a Department of Fish and Game is required by federal law for participation in federal programs and is therefore authorized by Article IX, section 7. See 16 U.S.C. § 669. However, as discussed earlier, it is not clear whether a dedication of interest

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9/ See Atty. Gen. Op. Nos. 7, 9, and 14; inf. memo (Alaska, March 10, 1966); Atty. Gen. Op. No. 22 (Alaska, June 2, 1978); inf. memo (June 30, 1981).

earned on investments in a fund such as that made by AS 16.05.110(5) is constitutional.

3. Reserves for Capital Outlay (AS 37.05.157) and Energy Facilities Development (AS 37.05.158).

By statute there is allocated to each of these accounts a fixed percentage of annual receipts from minerals on state land. Both of these funds appear to be unconstitutional dedications to the extent that they restrict the purpose for which money may be spent. We are informed that the Department of Administration has recorded the amounts to be allocated to each account but has not retained that money for expenditures related to capital outlay or energy facilities development. We also understand that the legislature has not made any appropriations from these two accounts. We suggest that AS 37.05.157 and AS 37.05.158 be repealed.

4. Renewable Resources Fund (AS 37.11.010-090). As we advised in our 1975 Attorney General Opinion No. 9, this statutory dedication is unconstitutional. We understand that the Department of Administration has followed our advice and has disregarded AS 37.11.010-090. We suggest that these statutes be repealed.

B. Allocation by Statute of Revenue to a Fund or Account  
From Which it may be Spent or Used Without Further Ap-  
propriation

1. Public Employees Retirement System Fund (AS 39.35)

This fund receives money from employees and employers who participate in the system. State employer contributions are paid to the fund monthly. AS 39.35.280. State employee contributions are statutorily required to be withheld from wages and transferred to the funds. AS 39.39.170. Participating political subdivisions make similar contributions on behalf of their employees. Benefits are paid to members of the retirement systems according to statute AS 39.35.370 et seq. Expenses of administering the system are also paid from the fund but are specifically required by statute to be included in the annual operating budget. AS 39.35.100(b)(4). The Teacher's Retirement System is accounted for in the same manner.

Although this is clearly a dedication of money received by the state, we believe that it is permissible under the implied exception theory

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discussed earlier. It is our opinion that there is an implied exception to the dedicated funds prohibition for pension fund contributions. 10/

2. International Airport Funds (AS 37.15.420, 430, 440)

The fund established under AS 37.15.420 contains money received from the sale of general obligation bonds for airport improvements and other grants or money provided for the same purpose for which the bonds were authorized. The fund established under AS 37.15.430 contains revenues received by the state from ownership and operation of its airports. The fund established under AS 37.15.440 contains ~~interest-earned on-~~ money in the ~~section-420-fund--and~~ revenues transferred from the section 430 fund for the purpose of redeeming airport revenue bonds.

Although each fund provides for a dedication of state revenue, we believe that they are permissible under the implied exception theory discussed earlier at pp. 5 and 6. It is our opinion that there is an implied exception to the

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10/ The constitutional provision for state employee retirement systems supports such an implied exception. Alaska Constitution, Article XII, section 7.

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dedicated funds prohibition for revenue derived from bond issues and for revenue derived from facilities constructed with bond proceeds, at least to the extent that it is necessary to satisfy the debt obligation or maintain the facility so that it continues to generate revenues for that purpose. To the extent that revenues are dedicated for purposes which are not related to satisfying the debt or maintaining the facility 11/, we believe that dedication would

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11/ AS 37.15.430(a) authorizes use of funds dedicated to the International Airport Revenue Fund for six purposes providing, in pertinent part, as follows:

The money in the revenue fund shall only be used for the purpose of paying or securing the payment of the principal of and interest on the bonds and of and on any other revenue bonds issued by authorization of the legislature to provide funds to acquire, equip, construct and install additions and improvements to, and extensions of and facilities for, the airports and to be payable out of the revenue fund, the purpose of paying the normal and necessary costs of maintaining and operating the airports and all of the improvements and facilities of them, the purpose of paying the costs of renewals, replacements and extraordinary repairs to the airports and all of the improvements and facilities of them, the purpose of redeeming before their fixed maturities any and all revenue bonds issued for the purposes of the airports, the purpose of providing funds to acquire, construct and install necessary additions and improvements to and extensions of and facilities for the airports and all of their facilities, and the purpose of providing funds to pay any and all other costs relating to the ownership, use and operation of the airports.

violate Article IX, section 7 unless it either existed prior to ratification of our Constitution or is required by federal law. 12/

3. Continuing Debt Service Appropriation (AS 37.15-.012)

This statute purports to create a continuing annual appropriation from the general fund of the amount necessary to pay debt service on all outstanding general obligation bonds. This may be a dedication of revenues for a specific purpose. 13/ Even if it is, it is our opinion that there would be an implied exception to the dedicated fund prohibition for bond obligations.

4. Rural Electrification Revolving Loan Fund (AS 44-.83.361)

This fund received an initial appropriation from which the Alaska Power Authority is authorized to make loans. Principal and interest

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12/ A dedication of airport revenues did exist prior to ratification. § 32-3A-15 ACLA 1949. However, it was repealed in 1968 by § 2 ch. 14, SLA 1968. On the other hand, it may be that 49 U.S.C. § 1718, adopted in 1970 and amended in 1982 by Section 511 of the Tax Equity and Fiscal Responsibility Act of 1982, P.L. 97-760, would be interpreted to require dedication of all airport revenues to construction, maintenance and operation of airports.

13/ Our uncertainty on this point arises from the fact that the statute does not purport to dedicate a particular revenue source.

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payments on loans made from the fund are required by law to return to the fund. As we pointed out above, at n. 1, the questions of whether the principal and/or interest payments are revenues which may not be dedicated in this manner is now a matter in litigation in a suit filed by the Trustees for Alaska.

We will be defending the legislature's action in making both those dedications. In doing so, we will present in more detail a number of the arguments discussed above in support of the legislature's action. In addition, we will discuss the presumption of constitutionality of statutes and the deference due to the administrative and legislative interpretation of the dedicated funds prohibition. As indicated above, we believe that the return of principal payments to a loan fund does not offend the Constitution and that the return of interest payments to the loan fund may be permissible. However, we cannot predict with certainty the position that the court will adopt.

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C. Appropriation of an amount from a specific revenue source (e.g., program receipts).

From time to time the legislature, by means of an annual operating budget appropriation, authorizes an agency to spend money that is generated out of one of the agency's programs. The appropriation also sets an upper limit on the amount that can be spent. Although program receipts are clearly state revenues which may not be dedicated, the practice of identifying program receipts as an appropriation source does not in any way limit legislative control over the expenditure of revenues because the legislature maintains control of the appropriation by means of the budget. Therefore, we believe that this practice is not affected by the dedicated funds prohibition.

D. Appropriation of an amount which is ascertainable only by reference to specified information.

Appropriations are regularly made to the risk management division, Department of Administration, of all proceeds during a fiscal year from claims, settlements or judgments arising from damage to or loss of state property. As pointed out above, at 18, this permits the state to repair or replace damaged property without specific appropriations, which would probably be either more or less than the actual property damage in any fiscal year.

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The only difference between this and a typical appropriation is in the determination of the amount appropriated. When a fixed amount is appropriated, obligations incurred against it may be honored as long as there is cash available in the treasury. When an appropriation is made for an amount to be received from a certain source during a specific period, obligations may be honored only if a sufficient amount of money has been received from that source and there is cash available in the treasury. However, the amount of the appropriation remains determinable. Consequently, it is our opinion that these kinds of appropriations do not violate the dedicated fund prohibition. 14/

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14/ The pending litigation discussed earlier (Trustees for Alaska v. State, supra) also includes a claim that an appropriation to the Alaska Power Authority of the interest to be received on money separately appropriated to the Power Development Fund violates the dedicated funds prohibition. § 1 ch. 90, SLA 1980, as reenacted by § 69 ch. 92, SLA 1981 and amended by § 236 ch. 141, SLA 1982. The questioned appropriation does not state a specific time period during which the interest is to be accrued. Consideration by the court of this particular question might not occur since, by informal memo dated April 19, 1982, we advised the Treasury Division of the Department of Revenue that the interest must be returned to the general fund because of a specific statutory requirement, AS 44.83.388(b). We are informed that no interest has accrued to the Power Development Fund.

E. Other Miscellaneous Dedications

1. Appropriations to the Permanent Fund. Since the constitution (Article IX, section 15) specifically authorizes dedications to the Permanent Fund of "at least" 25 percent of certain revenues, we believe any additional dedication to the fund by statute 15/ or by appropriation is also permissible.
2. Rainy day account. AS 37.05 179 creates a reserve fund to which money is appropriated and authorizes it to be spent for certain necessary emergency operating expenses at some future time. It is our opinion that this practice is permissible under the theory discussed above beginning at p. 12 that money once it is appropriated loses its character as revenue for purposes of the dedicated funds prohibition. A contrary view would severely restrict flexibility in state budgeting and accounting, and we doubt that such a view would be adopted by the courts.

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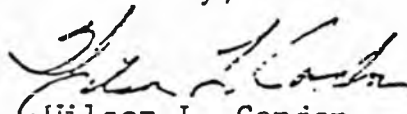
15/ In 1980, the legislature increased the percentage dedication applicable to most new mineral leases to 50 percent. AS 37.13.010(a)(2).

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We hope you find this analysis helpful in determining the nature of the problems presented by the dedicated fund prohibition and the various statutory programs which may or may not run afoul of it. We expect to be able to advise you with greater certainty on some of these questions at the conclusion of the pending litigation described above.

Sincerely,

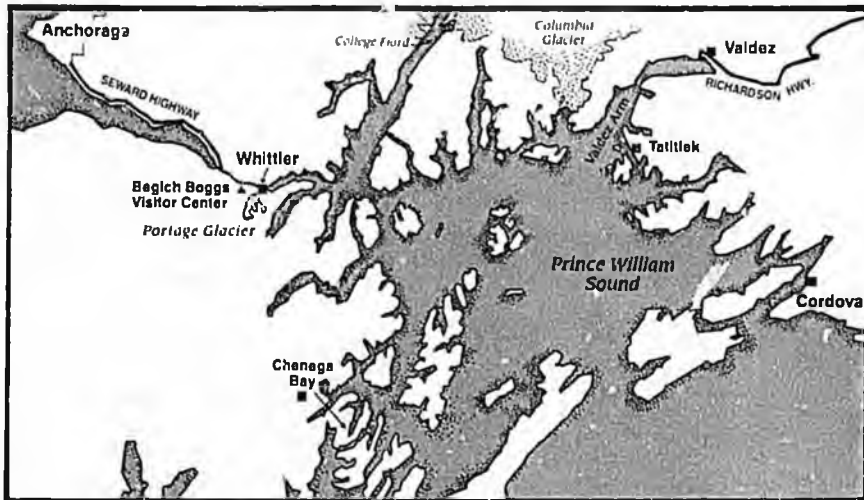
  
Wilson L. Condon  
Attorney General

WLC:jf

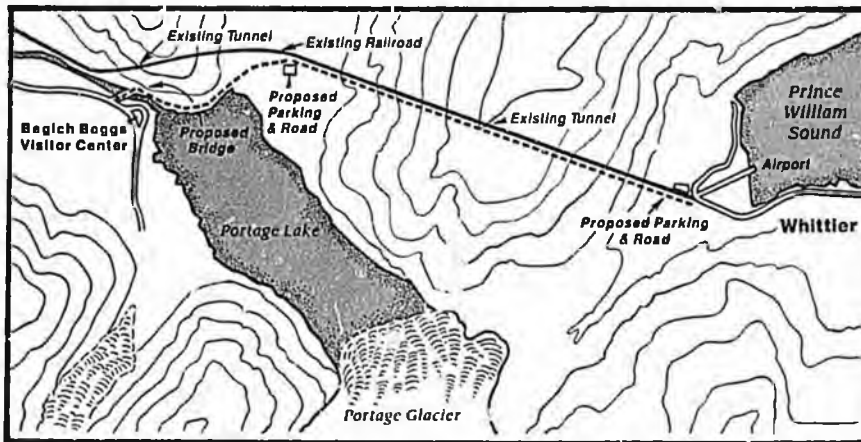
cc: Ron Lehr, Director  
Division of Budget and Management

Jay Hogan, Director  
Division of Legislative Finance  
Legislative Affairs Agency

# Support Road Access To Prince William Sound



*The proposed road would start near the Portage parking lot, bridge Portage River, and use the existing tunnels by paving the rail bed.*



*East/west rail and vehicle schedules would coordinate traffic. Turn-outs would be built into the tunnels.*



**PRINCE WILLIAM SOUND**  
ACCESS ALLIANCE

## Prince William Sound, An Exciting Recreational Opportunity

More than half the population of Alaska lives less than an hour from Prince William Sound. Easy access to Whittier opens up thousands of miles of sea coast to fishing, boating, and family camping.

Road access to Prince William Sound would enable you to load the family into the car at 8:00 a.m., hook up the boat, and be on the water and fishing by 10:00 a.m.

## Access Via The Whittier Tunnel

24 hour road access to the clear blue waters of Prince William Sound, via Whittier, has been a dream of many Alaskans. What prevented it from happening was the cost of building a road over the mountains. But there is a simple, inexpensive solution – use the existing rail bed and tunnels already in place.

The road to Whittier would start near the parking lot for Portage Glacier. A bridge would be built to span Portage River. By grading and paving the rail bed, much like the way tracks cross a highway, we would have one-lane road access to Prince William Sound.

Turn-outs would be added to existing tunnels for disabled vehicles. And by scheduling east/west vehicle traffic around train schedules, we would have simple, safe road access to Whittier. By making it a toll-road, the costs of construction would be paid by recreational boaters, wilderness adventurers, commercial fishermen, and tourists – who just might want to add a trip to the Sound to their Portage visit.

**Support Road Access To Whittier.**

### Endorsed By:

The Alaska Railroad Corporation

The City of Whittier

Prince William Sound Tourism Coalition

Chugach Alaska Corporation

Prince William Sound Access Alliance

200 West 34th Ave., Suite 206

Anchorage, Alaska 99503

BRADFIELD-CRAIG ROAD AND PORT PROJECT  
ALASKA SENATE TRANSPORTATION COMMITTEE  
May 2, 1989

An intercontinental road linking the British Columbia Highway system to the coast in Southeast Alaska has been a topic of discussion for many years. During the past 15 years the Alaska Department of Transportation has conducted a number of road reconnaissance studies that identified as many as 8 potential routes from the Canadian border to the coast. The area studied stretched from the Stikine River on the north to the Unik River on the south. After considering costs, engineering feasibility, environmental concerns and accessibility, the route through the Bradfield-Craig Watersheds appears to be the most feasible. It is the shortest route to the sea. It does not infringe upon any Wilderness area, and there is adequate water depth and land base at the head of the Bradfield Canal to accommodate a deep water port facility. On the Canadian side of the border the road will travel through the rich mineral and timber area in the Iskut River Basin and link up with British Columbia Highway 37 to complete the international road to the sea.

The economic benefits to be derived from the Bradfield-Craig Road and Port Project are many. This Project will open the door for a broad scope of long term growth and diversification. Initially the mines in the Iskut region will begin trucking large amounts of raw materials to the Bradfield Port. This would be the beginning of a new flow of commerce through Southeast Alaskan waters and ports. The road will encourage the development of other natural resources, especially timber, which in turn can provide an alternative saw log supply for our mills and encourage new growth in our timber industry facilities. The road will justify the activation of many known mineral deposits that are presently dormant for lack of cost efficient transportation. The road will afford us the opportunity to access new markets and take full advantage of the United States-Canada Free Trade Agreement, and the road will provide an alternate route for the independent traveler dispersing the pressure on our overtaxed ferry system. These are but a few of the myriad of economic opportunities that will arise.

Contained in the informational packet I distributed to you is a 2 page document titled, "Natural Resource Development in Northwestern British Columbia, 1988." The material in this document was compiled by Dr. Ted Grove, a highly respected Consulting Geologist with 30 years experience in natural resource development in Northwestern British Columbia and Alaska. Dr. Grove states, "Road access to the coast and electrical power would change the economics of developing the forest and mineral resources of the entire Iskut River, Unuk River and Sulphurets Creek Area."

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He further states that, "If only a few of the potential copper mines were considered there would be a potential for over 300,000 tons of concentrates per year. Lead and zinc, coal and asbestos could add a further 1.3 million tons per year at peak cycles. Together with wood forecast the area could be projected to export 2 million (+) tons per year, provide hundreds of new jobs, and import large tonnages by sea and road."

The overall economic returns to Southeast Alaska from the Bradfield-Craig Road and Port Project are difficult to forecast but looking at Wrangell's recent experience with just one operating gold mine and another in the construction phase you will see that in the past 12 months we have handled in excess of 6,300 tons of equipment and supplies. We have realized hard cash income of 2.5 million dollars. We have three new businesses and 20 new jobs. Since 1986 international flights at the Wrangell Airport have risen from 279 to 7,372 annually.

If you take these known dollar and volume figures and meld them into Dr. Groves projections it will give us some idea of what to expect in economic return if the road project is completed. An annual hard cash return of better than 3/4 of a billion dollars annually with an economic factor of 5.5 billion dollars. Thousands of new job opportunities and many new business ventures.

This Project should be looked upon, not as an expense, but as a viable investment in the future of Southeast Alaska