

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6709 SENATE STATE AFFAIRS

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ANALYSIS OF BILL/PROGRAM EFFECTS

The department's concerns are primarily confidentiality of data not yet analyzed, confidentiality of exact location of a specific fish and/or game resources, and confidentiality of individual management survey responses.

- Confidentiality of Data Not Yet Analyzed

Multi-million dollar fisheries and many other resource users depend upon a careful analysis of large amounts of data collected in many locations throughout the state. Each piece of this data resides on microcomputers in locations near where it is gathered. Any piece of this data taken out of context is meaningless and invalid for management use. The data in total provides a complete picture of the resource health, resource population, and potential resource use. Improper disclosure and use of a piece of this data by the public will jeopardize the department's ability to manage the resources prudently and could lead to lawsuits questioning the department's authority and responsibility in dealing with management and harvest of the resource.

- Confidentiality of Exact Location of a Specific Fish and/or Game Resource

Through technological advancement, the department is able to track and monitor the locations of certain big game and fish species. Access to this information by the public will have a negative effect upon the department's ability to protect the individual unit, the department's ability to track the individual unit, and the department's ability to manage the resource at large. For example, the department currently does not divulge the locations of radio collared bears in their denning sites. This bill will force us to provide this information since it is contained in a computerized database.

- Confidentiality of Individual Management Survey Responses

Much information collected by the department for use in resource management is collected with the understanding the individual survey responses will remain confidential. The department is usually able to get satisfactory and useful information only because the respondents know the responses will be kept confidential. This bill raises a doubt as to whether we will be able to continue collection of the necessary information needed to adequately manage the resources.

To address these concerns we offer a proposed amendment to insert additional language under Title 16.05.815.

Sec. 16.05.815. Confidential nature of certain reports and records. (a) Except as provided in (b) of this section, records required by regulations of the department concerning the landings of fish, shellfish or fishery products, and annual statistical reports of buyers and processors required by regulation, records of the telemetry radio frequencies of monitored species, denning sites, location of fish and wildlife species, when that knowledge may be detrimental to the population, and uncorrected raw research data of the department are confidential and may not be released by the department except that the department may release

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to Public Access
to the Information of Public Agencies,...
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Department of Revenue
Bkl: Child Support Enforcement Division
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	10.0	10.0	10.0	10.0	10.0	10.0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: See attached analysis.

Prepared By: Susan Goodman
Division: CSED

Phone: 263-6216
Date: March 6, 1990

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

Date: 3/6/90

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

Analysis for Fiscal Note
Child Support Enforcement Division
March 6, 1990
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There will be no fiscal impact for FY 90.

Because the only information that CSED is allowed to release to the public is the names of the obligors, the amount of arrears on child support cases, and any formal court documents, the fiscal impact on the Division is minimal. We have projected program receipts, generated by charging a fee to requestors based on operating costs, in the amount of \$10,000 annually. This figure is computed at the projected rate of \$1,000 per request, and is based on receiving 10 requests each year.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Division of Finance
 Title: An Act relating to public access BRU: Finance
to the information of the State
 Sponsor: Brown Components: _____
 Requestor: Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER G/F RECEIPTS	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

It is not possible to anticipate exact costs and revenues generated by this program. Any fiscal impact will be submitted through the Legislative Budget and Audit Committee in the form of revised program receipts requesting permission to receive and expend program receipts for this purpose.

Prepared by: Keith Busch, Director *Keith Busch* Phone: 465-2240
 Division: Finance Date: 3/6/90
 Approved by Commissioner: Frank S. Baxter *Frank S. Baxter* Date: 3/6/90
 Agency: Department of Administration

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

FISCAL NOTE

REQUEST:

Revision Date: 2/27/90 Agency Affected: Transportation & Public
 Title: An Act relating to Public BRU: Statewide Facilities
Access & changes to information. Information Systems
 Sponsor: Brown, Boucher, Goll, Ellis Components: Information Systems
 Requestor: Brown

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	10.0	10.0	10.0	10.0	10.0	10.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0
CAPITAL						
REVENUE						
	10.0	10.0	10.0	10.0	10.0	10.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER /Program	10.0	10.0	10.0	10.0	10.0	10.0
TOTAL Repts.	10.0	10.0	10.0	10.0	10.0	10.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Chuck Greeson Phone: 465-2889
 Division: Information Systems Date: 16 March 1990
 Approved by Commissioner: Mark. S. Hickey *MSH* Date: 3/19/90
 Agency: _____

Distribution (by preparer):

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

The Information Systems component, Department of Transportation and Public Facilities, is requesting the authority to receive program receipts generated from the implementation of HB405. Under this bill, the Department has the responsibility to make information records available to the public and for this the Department can collect fees. Additionally under this bill, the Department has the opportunity to create new information products and services. For this the Department can also collect fees.

The Information Systems (IS) component, which manages and maintains many of the Department's automated records, must be positioned to respond to public requests for information. Authority to receive these program receipts will allow the Department's IS component to defray the incremental costs of serving the public's request for land records information.

THE REQUESTED AMOUNT, \$10.0, is the component manager's best estimate of revenue generation, without the benefit of any historic data for purposes of forecasting. Because fees will be charged based on covering incremental costs, and on recouping a reasonable portion of the costs associated with building and maintaining this information, agency costs are expected to match revenues generated.

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 405 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to requests for information by
7 public agencies; relating to public access to and
8 changes to the information of public agencies; and
9 relating to the copyrighting of software produced by
10 or for public agencies."

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

12 * Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature
13 finds that

14 (1) public access to government information is a fundamental
15 right that operates to check and balance the actions of elected and ap-
16 pointed officials and to maintain citizen control of government;

17 (2) computers and electronic data bases have proliferated
18 throughout government raising issues regarding access to electronic infor-
19 mation that are not addressed in present law;

20 (3) to protect the public's right to know, public records must
21 be available at nominal cost;

22 (4) to protect an individual's right to privacy under the state
23 and federal constitutions, the state ^{shall} should inform individuals if personal
24 information about them will be subject to public disclosure;

25 (5) an individual ^{shall} should have the opportunity to change personal
26 information contained in public records if the information is inaccurate or
27 incomplete;

28 (6) if public agencies increase electronic access to the state's
29 information systems, particularly for the more isolated communities of the

Section 2 makes the public records of all public agencies open to inspection by the public under reasonable rules during regular office hours, except where specifically provided otherwise. Directs the custodial public officer to provide on request and on payment of a specified fee a certified copy of the public record.

Section 3. Sec. 09.25.110(b) establishes, except as otherwise provided, that the basic fee for copying public records may not exceed the standard unit cost of duplication established by the public agency.

Sec. 09.25.110(c) authorizes the public agency to charge personnel costs for record production under certain circumstances. Limits personnel costs to the actual salary and benefit costs for performing the search and copying tasks. Requires the fee to be paid before the records are

disclosed and authorizes the agency to require payment in advance of the search.

Sec. 09.25.110(d) authorizes a public agency to reduce or waive a fee in certain circumstances. Requires that fee reductions and waivers be uniformly applied. Authorizes a public agency to waive a fee of \$5 or less if the fee is less than the cost to arrange payment.

Sec. 09.25.110(e) authorizes the Bureau of Vital Statistics, the library archives, and the Division of Banking, Securities, and Corporations to continue charging the same fees for performing record searches, and to increase the fees as necessary to recover an amount that does not exceed the cost of performing the record searches.

Sec. 09.25.110(f) authorizes the judicial branch to establish by court rule reasonable fees for the inspection and copying of public records, including record searches.

Sec. 09.25.110(g) requires that electronic information provided in printed form be made available without codes or symbols, unless accompanied by an explanation of the codes or symbols.

1 state, the delivery of public services and the availability of information
2 throughout the state would be enhanced;

3 (7) public access to state and municipal information systems
4 will be enhanced by establishing user fees for electronic services and
5 products that are calculated to recover a reasonable portion of the costs
6 associated with building and maintaining a public information system.

7 (b) Except for personal information, if a provision in this Act is
8 determined to be ambiguous as to whether a record is subject to disclosure
9 to the public, the ambiguity shall be construed in favor of disclosure.

10 * Sec. 2. AS 09.25.110 is amended to read:

11 Sec. 09.25.110. INSPECTION AND COPIES OF PUBLIC RECORDS. Unless
12 specifically provided otherwise, the [BOOKS, RECORDS, PAPERS, FILES,
13 ACCOUNTS, WRITINGS, AND TRANSACTIONS OF ALL AGENCIES AND DEPARTMENTS
14 ARE] public records of all public agencies [AND] are open to inspec-
15 tion by the public under reasonable rules during regular office hours.
16 The public officer having the custody of public records shall give on
17 request and payment of the fee established under this section or
18 AS 09.25.115 [COSTS] a certified copy of the public record.

19 * Sec. 3. AS 09.25.110 is amended by adding new subsections to read:

20 (b) Except as otherwise provided in this section, the fee for
21 copying public records may not exceed the standard unit cost of dupli-
22 cation established by the public agency.

23 (c) If the production of records for one requester in a calendar
24 month exceeds five person-hours, the public agency shall require the
25 requester to pay the personnel costs required during the month to
26 complete the search and copying tasks. The personnel costs may not
27 exceed the actual salary and benefit costs for the personnel time
28 required to perform the search and copying tasks. The requester shall
29 pay the fee before the records are disclosed, and the public agency

Section 4. Sec. 09.25.115(a) authorizes a public agency, upon request and fee payment, to provide electronic services and products involving public records to members of the public. Encourages public agencies to make information available in usable electronic formats to the greatest extent feasible. Prohibits giving the activities authorized under this section a priority over primary agency responsibilities.

Sec. 09.25.115(b) indicates how fees are to be set for electronic services and products. Authorizes the reduction or waiver of a fee under certain circumstances. Requires that fee reductions and waivers be uniformly applied.

Sec. 09.25.115(c) establishes that the fee for duplicating a public record in the electronic form kept by a public agency may not exceed the actual incremental costs of the public agency.

Sec. 09.25.115(d) requires public agencies to include certain security and liability provisions in contracts for electronic services and products.

Sec. 09.25.115(e) requires each public agency to notify the state library of the electronic services and products offered by the agency under sec. 09.25.115. Requires the notification to include a summary of the available format options and the fees charged.

Sec. 09.25.115(f) requires public agencies that offer on-line access to an electronic file or data base to also provide without charge on-line access to the electronic file or data base through one or more public terminals.

Sec. 09.25.115(g) directs each public agency to establish the fees for the electronic services and products. Authorizes the TIC to cancel unreasonably high fees of public agencies in the executive branch.

Sec. 09.25.115(h) prohibits a public agency from making electronic services and products available to some persons and not to others.

Sec. 09.25.115(i) directs a public agency other than a municipality to separately account for the fees received by the agency under sec. 09.25.115 and deposited in the general fund. Authorizes the legislature to use the annual estimated balance in the account to make appropriations to the agency to carry out the agency's activities.

1 may require payment in advance of the search.

2 (d) A public agency may reduce or waive a fee when the public
3 agency determines that the reduction or waiver is in the public inter-
4 est. Fee reductions and waivers shall be uniformly applied among
5 persons who are similarly situated. A public agency may waive a fee
6 of \$5 or less if the fee is less than the cost to the public agency to
7 arrange for payment.

8 (e) Notwithstanding other provisions of this section to the
9 contrary, the Bureau of Vital Statistics, the library archives in the
10 Department of Education, and the division of banking, securities, and
11 corporations in the Department of Commerce and Economic Development
12 may continue to charge the same fees that they are charging on the
13 effective date of this Act for performing record searches, and may
14 increase the fees as necessary to recover an amount that does not
15 exceed the cost of performing the record searches.

16 (f) Notwithstanding other provisions of this section to the
17 contrary, the judicial branch may establish by court rule reasonable
18 fees for the inspection and copying of public records, including
19 record searches.

20 (g) Electronic information that is provided in printed form
21 shall be made available without codes or symbols, unless accompanied
22 by an explanation of the codes or symbols.

23 * Sec. 4. AS 09.25 is amended by adding a new section to read:

24 Sec. 09.25.115. ELECTRONIC SERVICES AND PRODUCTS. (a) Notwith-
25 standing AS 09.25.110(b) - (d) to the contrary, upon request and
26 payment of a fee established under (b) of this section, a public
27 agency may provide electronic services and products involving public
28 records to members of the public. A public agency is encouraged to
29 make information available in usable electronic formats to the

1 greatest extent feasible. The activities authorized under this sec-
2 tion may not take priority over the primary responsibilities of a
3 public agency.

4 (b) The fee for electronic services and products must be based
5 on recovery of the actual incremental costs of providing the elec-
6 tronic services and products, and a reasonable portion of the costs
7 associated with building and maintaining the information system of the
8 public agency. The fee may be reduced or waived by the public agency
9 if the electronic services and products are to be used for a public
10 purpose, including public agency program support, nonprofit activi-
11 ties, journalism, and academic research. Fee reductions and waivers
12 shall be uniformly applied among persons who are similarly situated.

13 (c) Notwithstanding (b) of this section, the fee for duplicating
14 a public record in the electronic form kept by a public agency may not
15 exceed the actual incremental costs of the public agency.

16 (d) Public agencies shall include in a contract for electronic
17 services and products provisions that

18 (1) protect the security and integrity of the information
19 system of the public agency and of information systems that are shared
20 by public agencies; and

21 (2) limit the liability of the public agency providing the
22 services and products.

23 (e) Each public agency shall notify the state library distribu-
24 tion and data access center established under AS 14.56.090 of the
25 electronic services and products offered by the public agency to the
26 public under this section. The notification must include a summary of
27 the available format options and the fees charged.

28 (f) When offering on-line access to an electronic file or data
29 base, a public agency also shall provide without charge on-line access

Section 5 states that every person has a right to inspect a public record in the state, except in certain listed circumstances. Except as provided in AS 09.25.215, requires custodial public officers to permit the inspection and give a certified copy of the record on demand and payment of the required fee. States that the copy is evidence of the original. In the rest of the section, makes technical changes to conform the terminology to the use of "public records".

1 to the electronic file or data base through one or more public ter-
2 minals.

3 (g) Each public agency shall establish the fees for the elec-
4 tronic services and products provided under this section. The Tele-
5 communications Information Council may cancel the fees established by
6 a public agency in the executive branch, including the Alaska State
7 Housing Authority, the University of Alaska, and the Alaska Railroad
8 Corporation, if the council determines that the fees are unreasonably
9 high.

10 (h) A public agency may not make electronic services and prod-
11 ucts available to one member of the public and withhold them from
12 other members of the public.

13 (i) A public agency other than a municipality shall separately
14 account for the fees received by the agency under this section and
15 deposited in the general fund. The annual estimated balance in the
16 account may be used by the legislature to make appropriations to the
17 agency to carry out the activities of the agency.

18 * Sec. 5. AS 09.25.120 is amended to read:

19 Sec. 09.25.120. INSPECTION AND COPYING OF PUBLIC RECORDS. Every
20 person has a right to inspect a public [WRITING OR] record in the
21 state, including public [WRITINGS AND] records in recorders' offices
22 except (1) records of vital statistics and adoption proceedings which
23 shall be treated in the manner required by AS 18.50; (2) records
24 pertaining to juveniles; (3) medical and related public health re-
25 cords; (4) records required to be kept confidential by a federal law
26 or regulation or by state law; (5) records or information compiled for
27 law enforcement purposes, but only to the extent that the production
28 of the law enforcement records or information (A) could reasonably be
29 expected to interfere with enforcement proceedings, (B) would deprive

1 a person of a right to a fair trial or an impartial adjudication, (C)
2 could reasonably be expected to constitute an unwarranted invasion of
3 the personal privacy of a suspect, defendant, victim, or witness, (D)
4 could reasonably be expected to disclose the identity of a confiden-
5 tial source, (E) would disclose confidential techniques and procedures
6 for law enforcement investigations or prosecutions, (F) would disclose
7 guidelines for law enforcement investigations or prosecutions if the
8 disclosure could reasonably be expected to risk circumvention of the
9 law, or (G) could reasonably be expected to endanger the life or
10 physical safety of an individual. Except as provided in AS 09.25.215,
11 every [. EVERY] public officer having the custody of records not
12 included in the exceptions shall permit the inspection, and give on
13 demand and on payment of the [LEGAL] fees under AS 09.25.110 - 09.25.-
14 115 [THEREFOR] a certified copy of the [WRITING OR] record, and the
15 copy shall in all cases be evidence of the original. Recorders shall
16 permit memoranda, transcripts, and copies of the public [WRITINGS AND]
17 records in their offices to be made by photography or otherwise for
18 the purpose of examining titles to real estate described in the public
19 [WRITINGS AND] records, making abstracts of title or guaranteeing or
20 insuring the titles of the real estate, or building and maintaining
21 title and abstract plants; and shall furnish proper and reasonable
22 facilities to persons having lawful occasion for access to the public
23 [WRITINGS AND] records for those purposes, subject to reasonable rules
24 and regulations, in conformity to the direction of the court, as are
25 necessary for the protection of the [WRITINGS AND] records and to
26 prevent interference with the regular discharge of the duties of the
27 recorders and their employees.

28 * Sec. 6. AS 09.25 is amended by adding new sections to read:

29 Sec. 09.25.122. LITIGATION DISCLOSURE. A public record that is

Section 6 enacts three new sections.

Sec. 09.25.122 declares that a public record subject to disclosure and copying remains such a public record even if the record is related to litigation involving a public agency, except that for persons involved in litigation, the records are to be disclosed under applicable court procedures.

Sec. 09.25.123(a) directs the TIC to supervise and adopt regulations for the implementation of AS 09.25.110 - 09.25.140 by public agencies in the executive branch.

Sec. 09.25.123(b) directs the Legislative Council to supervise and adopt procedures for the implementation of AS 09.25.110 - 09.25.140 by public agencies in the legislative branch.

Sec. 09.25.123(c) directs the administrative director of courts to supervise and adopt procedures for the implementation of AS 09.25.110 - 09.25.140 by public agencies in the judicial branch.

Sec. 09.25.123(d) requires that the regulations and procedures adopted under sec. 09.24.123 include procedures for making an administrative appeal of public agency action taken under AS 09.25.110 - 09.25.140.

Sec. 09.25.123(e) provides certain definitions for sec. 09.24.123.

Sec. 09.25.124 provides a right of appeal from final administrative orders made by a public agency under AS 09.25.110 - 09.25.140.

Section 6

1 subject to disclosure and copying under AS 09.25.110 - 09.25.120
2 remains a public record subject to disclosure and copying even if the
3 record is used for, included in, or relevant to litigation, including
4 law enforcement proceedings, involving a public agency, except that
5 with respect to a person involved in litigation, the records sought
6 shall be disclosed in accordance with applicable court rules. In this
7 section, "involved in litigation" means a party to litigation or
8 representing a party to litigation, including obtaining public records
9 for the party.

10 Sec. 09.25.123. SUPERVISION AND REGULATION. (a) The Telecommu-
11 nications Information Council shall supervise and adopt regulations
12 for the operation and implementation of AS 09.25.110 - 09.25.140 by
13 public agencies in the executive branch, including the Alaska State
14 Housing Authority, the University of Alaska, and the Alaska Railroad
Corporation.

16 (b) The legislative council shall supervise and adopt procedures
17 for the operation and implementation of AS 09.25.110 - 09.25.140 by
18 public agencies in the legislative branch.

19 (c) The administrative director of courts shall supervise and
20 adopt procedures for the operation and implementation of AS 09.25.-
21 110 - 09.25.140 by public agencies in the judicial branch.

22 (d) The regulations and procedures adopted under this section
23 must include the establishment of procedures for making an administra-
24 tive appeal of public agency action that is taken under AS 09.25.110 -
25 09.25.140.

26 (e) In this section,

27 (1) "action" includes the calculation of a fee, the denial
28 of a fee reduction or waiver and the denial of a request to inspect or
29 copy a public record;

Section 7 amends AS 09.25.125 to cover the denial or attempt to deny the inspection of a public record. Also authorizes a person to seek injunctive relief under AS 09.25.125 without exhausting the person's remedies under AS 09.25.123 - 09.25.124 or other remedies established by a public agency.

Section 8 requires that if it is ambiguous whether an application of AS 09.25.100 - 09.25.220 to personal information violates the right to privacy provision in the state constitution, the ambiguity must be resolved in favor of the right to privacy.

Section 9 provides definitions for AS 09.25.100 - 09.25.220, including "electronic services and products", "public agency", and "public records". "Public agency" is defined to cover instrumentalities of the state and municipalities.

1 (2) "public agency" does not include a municipality.

2 Sec. 09.25.124. APPEALS. A person may appeal to the superior
3 court the final administrative order made by a public agency under
4 AS 09.25.110 - 09.25.140.

5 * Sec. 7. AS 09.25.125 is amended to read:

6 Sec. 09.25.125. ENFORCEMENT: INJUNCTIVE RELIEF. A person having
7 custody or control of a public record who denies, obstructs, or at-
8 tempts to obstruct, or a person not having custody or control who aids
9 or abets another person in denying, obstructing, or attempting to
10 obstruct, the inspection of a public record subject to inspection
11 under AS 09.25.110 or 09.25.120 may be enjoined by the superior court
12 from denying, obstructing, or attempting to obstruct, the inspection
13 of public records subject to inspection under AS 09.25.110 or 09.25.-
14 120. A person may seek injunctive relief under this section without
15 exhausting the person's remedies under AS 09.25.123 - 09.25.124 [or
16 other remedies established by a public agency.]

17 * Sec. 8. AS 09.25 is amended by adding a new section to read:

18 Sec. 09.25.215. INTENT REGARDING AMBIGUITY. If the application
19 of AS 09.25.100 - 09.25.220 to personal information is ambiguous as to
20 whether the application violates art. I, sec. 22, Constitution of the
21 State of Alaska, the ambiguity shall be construed in favor of the
22 right of privacy. In this section, "personal information" has the
23 meaning given in AS 44.99.040.

24 * Sec. 9. AS 09.25.220 is amended to read:

25 Sec. 09.25.220. DEFINITIONS. In AS 09.25.100 - 09.25.220
26 [AS 09.25.150 - 09.25.220], unless the context otherwise requires,

27 (1) "electronic services and products" means computer-
28 related services and products provided by a public agency, including

29 (A) electronic manipulation of the data contained in

1 public records in order to tailor the data to the person's re-
2 quest or to develop a product that meets the person's request;

3 (B) duplicating public records in alternative formats
4 not used by a public agency, providing periodic updates of an
5 electronic file or data base, or duplicating an electronic file
6 or data base from a geographic information system;

7 (C) providing on-line access to an electronic file or
8 data base;

9 (D) providing information that cannot be retrieved or
10 generated by the existing computer programs of the public agency;

11 (E) providing functional electronic access to the
12 informatics system of the public agency; in this subparagraph,
13 "functional access" includes the capability for alphanumeric
14 query and printing, graphic query and plotting, nongraphic data
15 input and analysis, and graphic data input and analysis;

16 (F) providing software developed by a public agency or
17 developed by a private contractor for a public agency;

18 (G) generating maps or other standard or customized
19 products from an electronic geographic information system;

20 (2) "news organization" means

21 (A) an individual, partnership, corporation or other
22 association regularly engaged in the business of

23 (i) publishing a newspaper or other periodical
24 that reports news events, is issued at regular intervals and
25 has a general circulation;

26 (ii) providing newsreels or other motion picture
27 news for public showing; or

28 (iii) broadcasting news to the public by wire,
29 radio, television or facsimile;

1 (B) a press association or other association of indi-
2 viduals, partnerships, corporations, or other associations de-
3 scribed in (A)(i), (ii), or (iii) of this paragraph engaged in
4 gathering news and disseminating it to its members for publica-
5 tion;

6 (3) [(2)] "privilege" means the conditional privilege gran-
7 ted to public officials and reporters to refuse to testify as to a
8 source of information;

9 (4) [(3)] "public official" means a person elected to a
10 public office created by the Constitution or laws of this state,
11 whether executive, legislative, or judicial, and who was holding that
12 office at the time of the communication for which privilege is claim-
13 ed;

14 (5) "public agency" means a political subdivision, depart-
15 ment, institution, board, commission, division, authority, public
16 corporation, council, committee, subcommittee, or other instrumental-
17 ity of the state or a municipality; "public agency" includes the
18 University of Alaska, the Alaska State Housing Authority, and the
19 Alaska Railroad Corporation;

20 (6) "public records" means books, papers, files, accounts,
21 writings, including drafts and memorializations of conversations, and
22 other items, regardless of format or physical characteristics, that
23 are developed or received by a public agency, or by a private contrac-
24 tor for a public agency, and that are preserved for their information-
25 al value or as evidence of the organization or operation of the public
26 agency; "public records" does not include proprietary software pro-
27 grams;

28 (7) [(4)] "reporter" means a person regularly engaged in the
29 business of collecting or writing news for publication, or

Section 10 allows a person to request from the Department of Public Safety a record from Alaska listing each criminal conviction involving an individual who has filed for public office in the state. Requires the department to provide a copy to the person and to the candidate. Authorizes the department to establish by regulation reasonable fees to cover the costs of researching and reproducing the conviction record.

Section 11 requires each state agency to notify the state library of the creation of certain data, including automated data bases, and provide for their accessibility through the library, except in certain circumstances.

Section 12 makes a technical change to conform to other changes in the bill.

1 presentation to the public, through a news organization; it includes
2 persons who were reporters at the time of the communication, though
3 not at the time of the claim of privilege;

4 (8) "Telecommunications Information Council" means the
5 Telecommunications Information Council established under AS 44.19.502.

6 * Sec. 10. AS 12.62 is amended by adding a new section to read:

7 Sec. 12.62.031. ACCESS TO CRIME INFORMATION INVOLVING A CANDI-
8 DATE FOR PUBLIC OFFICE. A member of the public may request from the
9 Department of Public Safety a record from this state listing each
10 criminal conviction involving an individual who has filed for public
11 office in the state. The Department of Public Safety shall provide a
12 copy of the conviction record to the member of the public and shall
13 also provide a copy of the conviction record to the person who is the
14 subject of the request. The Department of Public Safety may establish
15 by regulation reasonable fees to cover the costs of researching and
16 reproducing the conviction record.

17 * Sec. 11. AS 14.56.120(b) is amended to read:

18 (b) Each state agency shall notify the center of the creation of
19 all data published or compiled by or for it at public expense, includ-
20 ing automated data bases, and provide for its accessibility through
21 the center [,] unless the data is protected by the constitutional
22 right to privacy or is of a type stated by law to be confidential or
23 the agency is otherwise prohibited by law from doing so.

24 * Sec. 12. AS 18.50.310(f) is amended to read:

25 (f) Notwithstanding the provisions of AS 09.25.120, when 100
26 years have elapsed after the date of a birth, or 50 years have elapsed
27 after the date of a death, marriage, divorce, dissolution of marriage,
28 or annulment, the records of these events in the custody of the state
29 registrar become public records subject to inspection and copying as

Section 13 directs that the voting record for each legislator is to be made available to any person on request. Directs the Legislative Affairs Agency to keep voting records compiled annually under this section on the agency data system and to distribute copies to all legislative information offices for a fee established under AS 09.25.-115.

Section 14 authorizes a municipality to copyright software and to enforce its copyright rights.

Section 15 makes a technical change to conform to other changes in the bill.

1 provided in AS 09.25.110 - 09.25.140 [AS 09.25.110 AND AS 09.25.121 -
2 09.25.125].

3 * Sec. 13. AS 24.08 is amended by adding a new section to read:

4 Sec. 24.08.105. RECORD OF VOTES. The voting record for each
5 legislator shall be made available to any person on request. The
6 Legislative Affairs Agency shall keep voting records compiled annually
7 under this section on the agency data system and shall distribute
8 copies to all legislative information offices for a fee established
9 under AS 09.25.115.

10 * Sec. 14. AS 29.71 is amended by adding a new section to read:

11 Sec. 29.71.060. COPYRIGHTS. A municipality may hold the copy-
12 right for software created by the municipality or developed by a
13 contractor for the municipality, and may enforce its rights to protect
14 the copyright.

15 * Sec. 15. AS 40.21.030(a) is amended to read:

16 (a) In order to carry out the archival program, the state archi-
17 vist shall:

18 (1) negotiate for, acquire, and receive public records of
19 permanent value including public records of the state and political
20 subdivisions of the state and of defunct public agencies;

21 (2) establish and operate a state archival depository that
22 [WHICH] shall provide for the preservation, arrangement, repair,
23 rehabilitation, duplication, reproduction, description, and exhibition
24 of permanent public records or other documentary material transferred
25 to, or acquired by the state archivist;

26 (3) review and approve all agency records retention sched-
27 ules to identify and to ensure the preservation of those records
28 having permanent value;

29 (4) make permanent records under the supervision of the

Section 16 adds four new sections.

Sec. 44.99.020(a) requires a state agency that requests personal information directly from the subject of the information to give when the request is made to the individual a written notice that provides certain listed information.

Sec. 44.99.020(b) describes how the agency may provide the notice required by sec. 44.99.020(a).

Sec. 44.99.020(c) exempts certain listed requests for information from the notice requirement of sec. 44.99.020(a).

Sec. 44.99.030(a) allows an individual to challenge the accuracy and completeness of personal information on the individual that is maintained by a state agency and that is subject to public disclosure.

Sec. 44.99.030(b) states that an individual may challenge the accuracy or completeness of information under sec. 44.99.030(a) by filing a written request to change the information. States what the request must contain.

Sec. 44.99.030(c) authorizes the state agency to request within a certain time verification of disputed personal information from the individual who made the request to change the information.

Sec. 44.99.030(d) requires the state agency, within a certain period of time, to review the request for change and either change the information or deny the request. Requires the agency to notify the individual of the change or denial and include certain information in the notification of denial.

Sec. 44.99.030(e) allows the individual whose request for change is denied to provide the agency with a statement providing the individual's reasons for disagreeing with the decision. Directs the agency to maintain the request for change and the statement in its records. Requires that the agency clearly note on all of the agency's records that contain the disputed information which portions are disputed. Clarifies how this is to be done if the record is in electronic form

Sec. 44.99.030(f) exempts certain listed records and information from sec. 44.99.030.

Sec. 44.99.040 defines certain terms for the previous two sections. "Person" is defined to mean an individual. "State agency" is defined to cover the executive, judicial, and legislative branches of state government.

Sec. 44.99.050 authorizes a state agency to copyright software and to enforce its copyright rights. "State agency" is defined to cover the executive, legislative, and judicial branches of state government.

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archivist, other than those required by AS 09.25.120 to be kept confidential, available for public use at reasonable times;

(5) for a fee established under AS 09.25.110 - 09.25.115, make available to any person [FOR A REASONABLE FEE] copies of archival material under AS 09.25.120;

(6) adopt a seal for official use and for certification of record copies which copies shall have the same force and effect as if made by the original custodian of the records;

(7) negotiate payment for the acquisition of public records with the possessor of them;

(8) if negotiations under (7) of this subsection are unsuccessful or if the person in possession of the public records is unwilling to enter into those negotiations, arrange with the person in possession for the microfilming of the records;

(9) accept gifts, bequests, and endowments for purposes consistent with the objectives of this chapter;

(10) prepare inventories, indexes, catalogs, and other finding aids or guides to facilitate the use of the archives;

(11) accept documents, including motion picture film, still pictures, and sound recordings, that are appropriate for preservation by the state as evidence of its organization, functions, policies, decisions, procedures, and transactions.

* Sec. 16. AS 44.99 is amended by adding new sections to read:

ARTICLE 1A. PERSONAL INFORMATION IN PUBLIC RECORDS.

Sec. 44.99.020. NOTICE REGARDING PERSONAL INFORMATION. (a)

When a state agency requests personal information directly from the person who is the subject of the information, the agency shall give the person a written notice at the time of the request that states

(1) the name and address of the agency;

1 (2) the citation of the statute or regulation that author-
2 izes the agency to request the information;

3 (3) a statement indicating whether the person is required
4 to supply the information;

5 (4) the consequences to the person, if any, of not provid-
6 ing all or part of the requested information;

7 (5) a statement of the agency's anticipated uses of the
8 information, including the agency's internal uses of the information
9 and disclosure of the information to other state agencies;

10 (6) the fact that the information may be subject to in-
11 spection and copying under AS 09.25.110 - 09.25.120; and

12 (7) a statement summarizing how a person may challenge
13 under AS 44.99.030 the accuracy or completeness of personal informa-
14 tion maintained by a state agency.

15 (b) An agency may provide the written notice required under (a)
16 of this section by

17 (1) placing the notice on the form used to request the
18 information from the person;

19 (2) giving the person the notice on a separate sheet that
20 accompanies the form used to request the information from the person;

21 (3) giving the person a statement in a pamphlet, booklet,
22 manual, or other printed matter at the time the information on the
23 person is requested; or

24 (4) prominently posting a sign containing the notice in a
25 prominent location so that the sign can be easily observed and read by
26 the person at the time the information is requested.

27 (c) This section does not apply to a request for information on
a person if

28 (1) the request is made by a peace officer; in this

1 paragraph, "peace officer" has the meaning given in AS 01.10.060;

2 (2) the person is the agency's employee;

3 (3) the information is related to litigation; or

4 (4) the information is being collected by a public agency
5 when investigating a possible violation of law.

6 Sec. 44.99.030. INFORMATION ACCURACY AND COMPLETENESS. (a) A
7 person who is the subject of personal information that is maintained
8 by a state agency and subject to public disclosure under AS 09.25.-
9 110 - 09.25.140 may challenge the accuracy or completeness of the
10 personal information.

11 (b) To challenge the accuracy or completeness of personal infor-
12 mation under (a) of this section, the person must file with the state
13 agency a written request that the personal information be changed.
14 The request must provide

15 (1) a description of the challenged personal information;

16 (2) the changes necessary to make the personal information
17 accurate or complete; and

18 (3) the person's name and the address where the department
19 may contact the person.

20 (c) Within 30 days after receiving a written request made under
21 (b) of this section, the state ag request verification of the
22 disputed personal information from the person who made the request.

23 (d) Within 30 days after receiving the written request under (b)
24 of this section or the verification under (c) of this section, the
25 state agency shall review the request and

26 (1) change the personal information according to the re-
27 quest and notify the person in writing of the change; or

28 (2) deny the request and notify the person in writing of
29 the reasons for the decision and the name, title, and business address

1 of the person who denied the request.

2 (e) If a request is denied under (d) of this section, the person
3 may provide to the state agency a concise written statement that
4 states the person's reasons for disagreeing with the decision. The
5 state agency shall maintain in its records the request made under (b)
6 of this section and the statement provided by the person under this
7 subsection. On all of the state agency's records that contain the
8 disputed information, the state agency shall clearly note which por-
9 tions of the records are disputed. If the record is in electronic
10 form, the state agency may note the dispute in one field of the elec-
11 tronic form and maintain the other information about the dispute in
12 paper form.

13 (f) This section does not apply to criminal intelligence or
14 criminal investigative records, state agency personnel or retirement
15 system records, records of applicants for employment with the state
16 agency, or information in documents recorded under AS 40.17.

17 Sec. 44.99.040. DEFINITIONS. In AS 44.99.020 - 44.99.040,

18 (1) "person" means an individual;

19 (2) "personal information" means information that can be
20 used to identify a person and from which judgments can be made about a
21 person's character, habits, avocations, finances, occupation, general
22 reputation, credit, health, or other personal characteristics, but
23 does not include a person's name, address, or telephone number, if the
24 number is published in a current telephone directory, or information
25 describing a public job held by a person;

26 (3) "state agency" means a department, institution, board,
27 commission, division, authority, public corporation, committee, or
28 other administrative unit of the executive, judicial, or legislative
29 branch of state government, including the University of Alaska, the

Section 17 states that requests for personal information made by a state agency on or after the effective date of the bill are covered by sec. 44.99.020.

1 Alaska State Housing Authority, and the Alaska Railroad Corporation.

2 ARTICLE 1B. COPYRIGHTS BY STATE AGENCIES.

3
4 Sec. 44.99.050. COPYRIGHTS. A state agency may hold the copy-
5 right for software created by the agency or developed by a private
6 contractor for an agency, and may enforce its rights to protect the
7 copyright. In this section, "state agency" means a department, insti-
8 tution, board, commission, division, authority, public corporation,
9 committee, or other administrative unit of the executive, judicial, or
10 legislative branch of state government, including the University of
11 Alaska, the Alaska State Housing Authority, and the Alaska Railroad
12 Corporation.

13 * Sec. 17. AS 44.99.020, as enacted by sec. 16 of this Act, applies to
14 requests for personal information made by a state agency on or after the
15 effective date of this Act.

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 405 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to requests for information by
7 public agencies; relating to public access to and
8 changes to the information of public agencies; and
9 relating to the copyrighting of software produced by
10 or for public agencies."

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

12 * Section 1. LEGISLATIVE FINDINGS AND INTENT. (a) The legislature
13 finds that

14 (1) public access to government information is a fundamental
15 right that operates to check and balance the actions of elected and ap-
16 pointed officials and to maintain citizen control of government;

17 (2) computers and electronic data bases have proliferated
18 throughout government raising issues regarding access to electronic infor-
19 mation that are not addressed in present law;

20 (3) to protect the public's right to know, public records must
21 be available at nominal cost;

22 (4) to protect an individual's right to privacy under the state
23 and federal constitutions, the state should inform individuals if personal
24 information about them will be subject to public disclosure;

25 (5) an individual should have the opportunity to change personal
26 information contained in public records if the information is inaccurate or
27 incomplete;

28 (6) if public agencies increase electronic access to the state's
29 information systems, particularly for the more isolated communities of the

1 state, the delivery of public services and the availability of information
2 throughout the state would be enhanced;

3 (7) public access to state and municipal information systems
4 will be enhanced by establishing user fees for electronic services and
5 products that are calculated to recover a reasonable portion of the costs
6 associated with building and maintaining a public information system.

7 (b) Except for personal information, if a provision in this Act is
8 determined to be ambiguous as to whether a record is subject to disclosure
9 to the public, the ambiguity shall be construed in favor of disclosure.

10 * Sec. 2. AS 09.25.110 is amended to read:

11 Sec. 09.25.110. INSPECTION AND COPIES OF PUBLIC RECORDS. Unless
12 specifically provided otherwise, the [BOOKS, RECORDS, PAPERS, FILES,
13 ACCOUNTS, WRITINGS, AND TRANSACTIONS OF ALL AGENCIES AND DEPARTMENTS
14 ARE] public records of all public agencies [AND] are open to inspec-
15 tion by the public under reasonable rules during regular office hours.
16 The public officer having the custody of public records shall give on
17 request and payment of the fee established under this section or
18 AS 09.25.115 [COSTS] a certified copy of the public record.

19 * Sec. 3. AS 09.25.110 is amended by adding new subsections to read:

20 (b) Except as otherwise provided in this section, the fee for
21 copying public records may not exceed the standard unit cost of dupli-
22 cation established by the public agency.

23 (c) If the production of records for one requester in a calendar
24 month exceeds five person-hours, the public agency shall require the
25 requester to pay the personnel costs required during the month to
26 complete the search and copying tasks. The personnel costs may not
27 exceed the actual salary and benefit costs for the personnel time
28 required to perform the search and copying tasks. The requester shall
29 pay the fee before the records are disclosed, and the public agency

1 may require payment in advance of the search.

2 (d) A public agency may reduce or waive a fee when the public
3 agency determines that the reduction or waiver is in the public inter-
4 est. Fee reductions and waivers shall be uniformly applied among
5 persons who are similarly situated. A public agency may waive a fee
6 of \$5 or less if the fee is less than the cost to the public agency to
7 arrange for payment.

8 (e) Notwithstanding other provisions of this section to the
9 contrary, the Bureau of Vital Statistics, the library archives in the
10 Department of Education, and the division of banking, securities, and
11 corporations in the Department of Commerce and Economic Development
12 may continue to charge the same fees that they are charging on the
13 effective date of this Act for performing record searches, and may
14 increase the fees as necessary to recover an amount that does not
15 exceed the cost of performing the record searches.

16 (f) Notwithstanding other provisions of this section to the
17 contrary, the judicial branch may establish by court rule reasonable
18 fees for the inspection and copying of public records, including
19 record searches.

20 (g) Electronic information that is provided in printed form
21 shall be made available without codes or symbols, unless accompanied
22 by an explanation of the codes or symbols.

23 * Sec. 4. AS 09.25 is amended by adding a new section to read:

24 Sec. 09.25.115. ELECTRONIC SERVICES AND PRODUCTS. (a) Notwith-
25 standing AS 09.25.110(b) - (d) to the contrary, upon request and
26 payment of a fee established under (b) of this section, a public
27 agency may provide electronic services and products involving public
28 records to members of the public. A public agency is encouraged to
29 make information available in usable electronic formats to the

1 greatest extent feasible. The activities authorized under this sec-
2 tion may not take priority over the primary responsibilities of a
3 public agency.

4 (b) The fee for electronic services and products must be based
5 on recovery of the actual incremental costs of providing the elec-
6 tronic services and products, and a reasonable portion of the costs
7 associated with building and maintaining the information system of the
8 public agency. The fee may be reduced or waived by the public agency
9 if the electronic services and products are to be used for a public
10 purpose, including public agency program support, nonprofit activi-
11 ties, journalism, and academic research. Fee reductions and waivers
12 shall be uniformly applied among persons who are similarly situated.

13 (c) Notwithstanding (b) of this section, the fee for duplicating
14 a public record in the electronic form kept by a public agency may not
15 exceed the actual incremental costs of the public agency.

16 (d) Public agencies shall include in a contract for electronic
17 services and products provisions that

18 (1) protect the security and integrity of the information
19 system of the public agency and of information systems that are shared
20 by public agencies; and

21 (2) limit the liability of the public agency providing the
22 services and products.

23 (e) Each public agency shall notify the state library distribu-
24 tion and data access center established under AS 14.56.090 of the
25 electronic services and products offered by the public agency to the
26 public under this section. The notification must include a summary of
27 the available format options and the fees charged.

28 (f) When offering on-line access to an electronic file or data
29 base, a public agency also shall provide without charge on-line access

1 to the electronic file or data base through one or more public ter-
2 minals.

3 (g) Each public agency shall establish the fees for the elec-
4 tronic services and products provided under this section. The Tele-
5 communications Information Council may cancel the fees established by
6 a public agency in the executive branch, including the Alaska State
7 Housing Authority, the University of Alaska, and the Alaska Railroad
8 Corporation, if the council determines that the fees are unreasonably
9 high.

10 (h) A public agency may not make electronic services and prod-
11 ucts available to one member of the public and withhold them from
12 other members of the public.

13 (i) A public agency other than a municipality shall separately
14 account for the fees received by the agency under this section and
15 deposited in the general fund. The annual estimated balance in the
16 account may be used by the legislature to make appropriations to the
17 agency to carry out the activities of the agency.

18 * Sec. 5. AS 09.25.120 is amended to read:

19 Sec. 09.25.120. INSPECTION AND COPYING OF PUBLIC RECORDS. Every
20 person has a right to inspect a public [WRITING OR] record in the
21 state, including public [WRITINGS AND] records in recorders' offices
22 except (1) records of vital statistics and adoption proceedings which
23 shall be treated in the manner required by AS 18.50; (2) records
24 pertaining to juveniles; (3) medical and related public health re-
25 cords; (4) records required to be kept confidential by a federal law
26 or regulation or by state law; (5) records or information compiled for
27 law enforcement purposes, but only to the extent that the production
28 of the law enforcement records or information (A) could reasonably be
29 expected to interfere with enforcement proceedings, (B) would deprive

1 a person of a right to a fair trial or an impartial adjudication, (C)
2 could reasonably be expected to constitute an unwarranted invasion of
3 the personal privacy of a suspect, defendant, victim, or witness, (D)
4 could reasonably be expected to disclose the identity of a confiden-
5 tial source, (E) would disclose confidential techniques and procedures
6 for law enforcement investigations or prosecutions, (F) would disclose
7 guidelines for law enforcement investigations or prosecutions if the
8 disclosure could reasonably be expected to risk circumvention of the
9 law, or (G) could reasonably be expected to endanger the life or
10 physical safety of an individual. Except as provided in AS 09.25.215,
11 every [. EVERY] public officer having the custody of records not
12 included in the exceptions shall permit the inspection, and give on
13 demand and on payment of the [LEGAL] fees under AS 09.25.110 - 09.25.-
14 115 [THEREFOR] a certified copy of the [WRITING OR] record, and the
15 copy shall in all cases be evidence of the original. Recorders shall
16 permit memoranda, transcripts, and copies of the public [WRITINGS AND]
17 records in their offices to be made by photography or otherwise for
18 the purpose of examining titles to real estate described in the public
19 [WRITINGS AND] records, making abstracts of title or guaranteeing or
20 insuring the titles of the real estate, or building and maintaining
21 title and abstract plants; and shall furnish proper and reasonable
22 facilities to persons having lawful occasion for access to the public
23 [WRITINGS AND] records for those purposes, subject to reasonable rules
24 and regulations, in conformity to the direction of the court, as are
25 necessary for the protection of the [WRITINGS AND] records and to
26 prevent interference with the regular discharge of the duties of the
27 recorders and their employees.

28 * Sec. 6. AS 09.25 is amended by adding new sections to read:

29 Sec. 09.25.122. LITIGATION DISCLOSURE. A public record that is

1 subject to disclosure and copying under AS 09.25.110 - 09.25.120
2 remains a public record subject to disclosure and copying even if the
3 record is used for, included in, or relevant to litigation, including
4 law enforcement proceedings, involving a public agency, except that
5 with respect to a person involved in litigation, the records sought
6 shall be disclosed in accordance with applicable court rules. In this
7 section, "involved in litigation" means a party to litigation or
8 representing a party to litigation, including obtaining public records
9 for the party.

10 Sec. 09.25.123. SUPERVISION AND REGULATION. (a) The Telecommu-
11 nications Information Council shall supervise and adopt regulations
12 for the operation and implementation of AS 09.25.110 - 09.25.140 by
13 public agencies in the executive branch, including the Alaska State
14 Housing Authority, the University of Alaska, and the Alaska Railroad
15 Corporation.

16 (b) The legislative council shall supervise and adopt procedures
17 for the operation and implementation of AS 09.25.110 - 09.25.140 by
18 public agencies in the legislative branch.

19 (c) The administrative director of courts shall supervise and
20 adopt procedures for the operation and implementation of AS 09.25.-
21 110 - 09.25.140 by public agencies in the judicial branch.

22 (d) The regulations and procedures adopted under this section
23 must include the establishment of procedures for making an administra-
24 tive appeal of public agency action that is taken under AS 09.25.110 -
25 09.25.140.

26 (e) In this section,

27 (1) "action" includes the calculation of a fee, the denial
28 of a fee reduction or waiver and the denial of a request to inspect or
29 copy a public record;

1 (2) "public agency" does not include a municipality.

2 Sec. 09.25.124. APPEALS. A person may appeal to the superior
3 court the final administrative order made by a public agency under
4 AS 09.25.110 - 09.25.140.

5 * Sec. 7. AS 09.25.125 is amended to read:

6 Sec. 09.25.125. ENFORCEMENT: INJUNCTIVE RELIEF. A person having:
7 custody or control of a public record who denies, obstructs, or at-
8 tempts to obstruct, or a person not having custody or control who aids
9 or abets another person in denying, obstructing, or attempting to
10 obstruct, the inspection of a public record subject to inspection
11 under AS 09.25.110 or 09.25.120 may be enjoined by the superior court
12 from denying, obstructing, or attempting to obstruct, the inspection
13 of public records subject to inspection under AS 09.25.110 or 09.25.-
14 120. A person may seek injunctive relief under this section without
15 exhausting the person's remedies under AS 09.25.123 - 09.25.124 or
16 other remedies established by a public agency.

17 * Sec. 8. AS 09.25 is amended by adding a new section to read:

18 Sec. 09.25.215. INTENT REGARDING AMBIGUITY. If the application
19 of AS 09.25.100 - 09.25.220 to personal information is ambiguous as to
20 whether the application violates art. I, sec. 22, Constitution of the
21 State of Alaska, the ambiguity shall be construed in favor of the
22 right of privacy. In this section, "personal information" has the
23 meaning given in AS 44.99.040.

24 * Sec. 9. AS 09.25.220 is amended to read:

25 Sec. 09.25.220. DEFINITIONS. In AS 09.25.100 - 09.25.220
26 [AS 09.25.150 - 09.25.220], unless the context otherwise requires,

27 (1) "electronic services and products" means computer-
28 related services and products provided by a public agency, including

29 (A) electronic manipulation of the data contained in

1 public records in order to tailor the data to the person's re-
2 quest or to develop a product that meets the person's request;

3 (B) duplicating public records in alternative formats
4 not used by a public agency, providing periodic updates of an
5 electronic file or data base, or duplicating an electronic file
6 or data base from a geographic information system;

7 (C) providing on-line access to an electronic file or
8 data base;

9 (D) providing information that cannot be retrieved or
10 generated by the existing computer programs of the public agency;

11 (E) providing functional electronic access to the
12 information system of the public agency; in this subparagraph,
13 "functional access" includes the capability for alphanumeric
14 query and printing, graphic query and plotting, nongraphic data
15 input and analysis, and graphic data input and analysis;

16 (F) providing software developed by a public agency or
17 developed by a private contractor for a public agency;

18 (G) generating maps or other standard or customized
19 products from an electronic geographic information system;

20 (2) "news organization" means

21 (A) an individual, partnership, corporation or other
22 association regularly engaged in the business of

23 (i) publishing a newspaper or other periodical
24 that reports news events, is issued at regular intervals and
25 has a general circulation;

26 (ii) providing newsreels or other motion picture
27 news for public showing; or

28 (iii) broadcasting news to the public by wire,
29 radio, television or facsimile;

1 (B) a press association or other association of indi-
2 viduals, partnerships, corporations, or other associations de-
3 scribed in (A)(i), (ii), or (iii) of this paragraph engaged in
4 gathering news and disseminating it to its members for publica-
5 tion;

6 (3) [(2)] "privilege" means the conditional privilege gran-
7 ted to public officials and reporters to refuse to testify as to a
8 source of information;

9 (4) [(3)] "public official" means a person elected to a
10 public office created by the Constitution or laws of this state,
11 whether executive, legislative, or judicial, and who was holding that
12 office at the time of the communication for which privilege is claim-
13 ed;

14 (5) "public agency" means a political subdivision, depart-
15 ment, institution, board, commission, division, authority, public
16 corporation, council, committee, subcommittee, or other instrumentality
17 of the state or a municipality; "public agency" includes the
18 University of Alaska, the Alaska State Housing Authority, and the
19 Alaska Railroad Corporation;

20 (6) "public records" means books, papers, files, accounts,
21 writings, including drafts and memorializations of conversations, and
22 other items, regardless of format or physical characteristics, that
23 are developed or received by a public agency, or by a private contrac-
24 tor for a public agency, and that are preserved for their information-
25 al value or as evidence of the organization or operation of the public
26 agency; "public records" does not include proprietary software pro-
27 grams;

28 (7) [(4)] "reporter" means a person regularly engaged in the
29 business of collecting or writing news for publication, or

1 presentation to the public, through a news organization; it includes
2 persons who were reporters at the time of the communication, though
3 not at the time of the claim of privilege;

4 (8) "Telecommunications Information Council" means the
5 Telecommunications Information Council established under AS 44.19.502.

6 * Sec. 10. AS 12.62 is amended by adding a new section to read:

7 Sec. 12.62.031. ACCESS TO CRIME INFORMATION INVOLVING A CANDI-
8 DATE FOR PUBLIC OFFICE. A member of the public may request from the
9 Department of Public Safety a record from this state listing each
10 criminal conviction involving an individual who has filed for public
11 office in the state. The Department of Public Safety shall provide a
12 copy of the conviction record to the member of the public and shall
13 also provide a copy of the conviction record to the person who is the
14 subject of the request. The Department of Public Safety may establish
15 by regulation reasonable fees to cover the costs of researching and
16 reproducing the conviction record.

17 * Sec. 11. AS 14.56.120(b) is amended to read:

18 (b) Each state agency shall notify the center of the creation of
19 all data published or compiled by or for it at public expense, includ-
20 ing automated data bases, and provide for its accessibility through
21 the center [,] unless the data is protected by the constitutional
22 right to privacy or is of a type stated by law to be confidential or
23 the agency is otherwise prohibited by law from doing so.

24 * Sec. 12. AS 18.50.310(f) is amended to read:

25 (f) Notwithstanding the provisions of AS 09.25.120, when 100
26 years have elapsed after the date of a birth, or 50 years have elapsed
27 after the date of a death, marriage, divorce, dissolution of marriage,
28 or annulment, the records of these events in the custody of the state
29 registrar become public records subject to inspection and copying as

1 provided in AS 09.25.110 - 09.25.140 [AS 09.25.110 AND AS 09.25.121 -
2 09.25.125].

3 * Sec. 13. AS 24.08 is amended by adding a new section to read:

4 Sec. 24.08.105. RECORD OF VOTES. The voting record for each
5 legislator shall be made available to any person on request. The
6 Legislative Affairs Agency shall keep voting records compiled annually
7 under this section on the agency data system and shall distribute
8 copies to all legislative information offices for a fee established
9 under AS 09.25.115.

10 * Sec. 14. AS 29.71 is amended by adding a new section to read:

11 Sec. 29.71.060. COPYRIGHTS. A municipality may hold the copy-
12 right for software created by the municipality or developed by a
13 contractor for the municipality, and may enforce its rights to protect
14 the copyright.

15 * Sec. 15. AS 40.21.030(a) is amended to read:

16 (a) In order to carry out the archival program, the state archi-
17 vist shall:

18 (1) negotiate for, acquire, and receive public records of
19 permanent value including public records of the state and political
20 subdivisions of the state and of defunct public agencies;

21 (2) establish and operate a state archival depository that
22 [WHICH] shall provide for the preservation, arrangement, repair,
23 rehabilitation, duplication, reproduction, description, and exhibition
24 of permanent public records or other documentary material transferred
25 to, or acquired by the state archivist;

26 (3) review and approve all agency records retention sched-
27 ules to identify and to ensure the preservation of those records
28 having permanent value;

29 (4) make permanent records under the supervision of the

1 archivist, other than those required by AS 09.25.120 to be kept confi-
2 dential, available for public use at reasonable times;

3 (5) for a fee established under AS 09.25.110 - 09.25.115,
4 make available to any person [FOR A REASONABLE FEE] copies of archival
5 material under AS 09.25.120;

6 (6) adopt a seal for official use and for certification of
7 record copies which copies shall have the same force and effect as if
8 made by the original custodian of the records;

9 (7) negotiate payment for the acquisition of public records
10 with the possessor of them;

11 (8) if negotiations under (7) of this subsection are unsuc-
12 cessful or if the person in possession of the public records is un-
13 willing to enter into those negotiations, arrange with the person in
14 possession for the microfilming of the records;

15 (9) accept gifts, bequests, and endowments for purposes
16 consistent with the objectives of this chapter;

17 (10) prepare inventories, indexes, catalogs, and other
18 finding aids or guides to facilitate the use of the archives;

19 (11) accept documents, including motion picture film, still
20 pictures, and sound recordings, that are appropriate for preservation
21 by the state as evidence of its organization, functions, policies,
22 decisions, procedures, and transactions.

23 * Sec. 16. AS 44.99 is amended by adding new sections to read:

24 ARTICLE 1A. PERSONAL INFORMATION IN PUBLIC RECORDS.

25 Sec. 44.99.020. NOTICE REGARDING PERSONAL INFORMATION. (a)

26 When a state agency requests personal information directly from the
27 person who is the subject of the information, the agency shall give
28 the person a written notice at the time of the request that states

29 (1) the name and address of the agency;

1 (2) the citation of the statute or regulation that author-
2 izes the agency to request the information;

3 (3) a statement indicating whether the person is required
4 to supply the information;

5 (4) the consequences to the person, if any, of not provid-
6 ing all or part of the requested information;

7 (5) a statement of the agency's anticipated uses of the
8 information, including the agency's internal uses of the information
9 and disclosure of the information to other state agencies;

10 (6) the fact that the information may be subject to in-
11 spection and copying under AS 09.25.110 - 09.25.120; and

12 (7) a statement summarizing how a person may challenge
13 under AS 44.99.030 the accuracy or completeness of personal informa-
14 tion maintained by a state agency.

15 (b) An agency may provide the written notice required under (a)
16 of this section by

17 (1) placing the notice on the form used to request the
18 information from the person;

19 (2) giving the person the notice on a separate sheet that
20 accompanies the form used to request the information from the person;

21 (3) giving the person a statement in a pamphlet, booklet,
22 manual, or other printed matter at the time the information on the
23 person is requested; or

24 (4) prominently posting a sign containing the notice in a
25 prominent location so that the sign can be easily observed and read by
26 the person at the time the information is requested.

27 (c) This section does not apply to a request for information on
28 a person if

29 (1) the request is made by a peace officer; in this

1 paragraph, "peace officer" has the meaning given in AS 01.10.060;

2 (2) the person is the agency's employee;

3 (3) the information is related to litigation; or

4 (4) the information is being collected by a public agency
5 when investigating a possible violation of law.

6 Sec. 44.99.030. INFORMATION ACCURACY AND COMPLETENESS. (a) A
7 person who is the subject of personal information that is maintained
8 by a state agency and subject to public disclosure under AS 09.25.-
9 110 - 09.25.140 may challenge the accuracy or completeness of the
10 personal information.

11 (b) To challenge the accuracy or completeness of personal infor-
12 mation under (a) of this section, the person must file with the state
13 agency a written request that the personal information be changed.
14 The request must provide

15 (1) a description of the challenged personal information;

16 (2) the changes necessary to make the personal information
17 accurate or complete; and

18 (3) the person's name and the address where the department
19 may contact the person.

20 (c) Within 30 days after receiving a written request made under
21 (b) of this section, the state agency may request verification of the
22 disputed personal information from the person who made the request.

23 (d) Within 30 days after receiving the written request under (b)
24 of this section or the verification under (c) of this section, the
25 state agency shall review the request and

26 (1) change the personal information according to the re-
27 quest and notify the person in writing of the change; or

28 (2) deny the request and notify the person in writing of
29 the reasons for the decision and the name, title, and business address

1 of the person who denied the request.

2 (e) If a request is denied under (d) of this section, the person
3 may provide to the state agency a concise written statement that
4 states the person's reasons for disagreeing with the decision. The
5 state agency shall maintain in its records the request made under (b)
6 of this section and the statement provided by the person under this
7 subsection. On all of the state agency's records that contain the
8 disputed information, the state agency shall clearly note which por-
9 tions of the records are disputed. If the record is in electronic
10 form, the state agency may note the dispute in one field of the elec-
11 tronic form and maintain the other information about the dispute in
12 paper form.

13 (f) This section does not apply to criminal intelligence or
14 criminal investigative records, state agency personnel or retirement
15 system records, records of applicants for employment with the state
16 agency, or information in documents recorded under AS 40.17.

17 Sec. 44.99.040. DEFINITIONS. In AS 44.99.020 - 44.99.040,

18 (1) "person" means an individual;

19 (2) "personal information" means information that can be
20 used to identify a person and from which judgments can be made about a
21 person's character, habits, avocations, finances, occupation, general
22 reputation, credit, health, or other personal characteristics, but
23 does not include a person's name, address, or telephone number, if the
24 number is published in a current telephone directory, or information
25 describing a public job held by a person;

26 (3) "state agency" means a department, institution, board,
27 commission, division, authority, public corporation, committee, or
28 other administrative unit of the executive, judicial, or legislative
29 branch of state government, including the University of Alaska, the

1 Alaska State Housing Authority, and the Alaska Railroad Corporation.

2 ARTICLE 1B. COPYRIGHTS BY STATE AGENCIES.

3 Sec. 44.99.050. COPYRIGHTS. A state agency may hold the copy-
4 right for software created by the agency or developed by a private
5 contractor for an agency, and may enforce its rights to protect the
6 copyright. In this section, "state agency" means a department, insti-
7 tution, board, commission, division, authority, public corporation,
8 committee, or other administrative unit of the executive, judicial, or
9 legislative branch of state government, including the University of
10 Alaska, the Alaska State Housing Authority, and the Alaska Railroad
11 Corporation.

12 * Sec. 17. AS 44.99.020, as enacted by sec. 16 of this Act, applies to
13 requests for personal information made by a state agency on or after the
14 effective date of this Act.

6-1782G
Bannister
4/27/90

Original sponsor(s): REP. BROWN, Boucher, Goll, Ellis

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 405 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to requests for information by
7 public agencies; relating to public access to and
8 changes to the information of public agencies; and
9 relating to the copyrighting of software produced by
10 or for public agencies."

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

12 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds
13 that

14 (1) public access to government information is a fundamental
15 right that operates to check and balance the actions of elected and ap-
16 pointed officials and to maintain citizen control of government;

17 (2) computers and electronic data bases have proliferated
18 throughout government raising issues regarding access to electronic infor-
19 mation that are not addressed in present law;

20 (3) to protect the public's right to know, public records must
21 be available at nominal cost;

22 (4) to protect an individual's right to privacy under the state
23 and federal constitutions, the state shall inform individuals if personal
24 information about them will be subject to public disclosure;

25 (5) an individual shall have the opportunity to change personal
26 information contained in public records if the information is inaccurate or
27 incomplete;

28 (6) if public agencies increase electronic access to the state's
29 information systems, particularly for the more isolated communities of the

1 state, the delivery of public services and the availability of information
2 throughout the state would be enhanced;

3 (7) public access to state and municipal information systems
4 will be enhanced by establishing user fees for electronic services and
5 products that are calculated to recover a reasonable portion of the costs
6 associated with building and maintaining a public information system.

7 * Sec. 2. AS 09.25.110 is amended to read:

8 Sec. 09.25.110. INSPECTION AND COPIES OF PUBLIC RECORDS. Unless
9 specifically provided otherwise, the [BOOKS, RECORDS, PAPERS, FILES,
10 ACCOUNTS, WRITINGS, AND TRANSACTIONS OF ALL AGENCIES AND DEPARTMENTS
11 ARE] public records of all public agencies [AND] are open to inspec-
12 tion by the public under reasonable rules during regular office hours.
13 The public officer having the custody of public records shall give on
14 request and payment of the fee established under this section or
AS 09.25.115 [COSTS] a certified copy of the public record.

16 * Sec. 3. AS 09.25.110 is amended by adding new subsections to read:

17 (b) Except as otherwise provided in this section, the fee for
18 copying public records may not exceed the standard unit cost of dupli-
19 cation established by the public agency.

20 (c) If the production of records for one requester in a calendar
21 month exceeds five person-hours, the public agency shall require the
22 requester to pay the personnel costs required during the month to
23 complete the search and copying tasks. The personnel costs may not
24 exceed the actual salary and benefit costs for the personnel time
25 required to perform the search and copying tasks. The requester shall
26 pay the fee before the records are disclosed, and the public agency
27 may require payment in advance of the search.

28 (d) A public agency may reduce or waive a fee when the public
29 agency determines that the reduction or waiver is in the public

1 interest. Fee reductions and waivers shall be uniformly applied among
2 persons who are similarly situated. A public agency may waive a fee
3 of \$5 or less if the fee is less than the cost to the public agency to
4 arrange for payment.

5 (e) Notwithstanding other provisions of this section to the
6 contrary, the Bureau of Vital Statistics, the library archives in the
7 Department of Education, and the division of banking, securities, and
8 corporations in the Department of Commerce and Economic Development
9 may continue to charge the same fees that they are charging on the
10 effective date of this Act for performing record searches, and may
11 increase the fees as necessary to recover agency expenses on the same
12 basis that is used by the agency immediately before the effective date
13 of this Act.

14 (f) Notwithstanding other provisions of this section to the
15 contrary, the Board of Regents of the University of Alaska may estab-
16 lish reasonable fees for the inspection and copying of public records,
17 including record searches.

18 (g) Notwithstanding other provisions of this section to the
19 contrary, the board of directors of the Alaska Railroad Corporation
20 may establish reasonable fees for the inspection and copying of public
21 records, including record searches.

22 (h) Notwithstanding other provisions of this section to the
23 contrary, the judicial branch may establish by court rule reasonable
24 fees for the inspection and copying of public records, including
25 record searches.

26 (i) Electronic information that is provided in printed form
27 shall be made available without codes or symbols, unless accompanied
28 by an explanation of the codes or symbols.

29 * Sec. 4. AS 09.25 is amended by adding a new section to read:

1 Sec. 09.25.115. ELECTRONIC SERVICES AND PRODUCTS. (a) Notwith-
2 standing AS 09.25.110(b) - (d) to the contrary, upon request and
3 payment of a fee established under (b) of this section, a public
4 agency may provide electronic services and products involving public
5 records to members of the public. A public agency is encouraged to
6 make information available in usable electronic formats to the great-
7 est extent feasible. The activities authorized under this section may
8 not take priority over the primary responsibilities of a public agen-
9 cy.

10 (b) The fee for electronic services and products must be based
11 on recovery of the actual incremental costs of providing the elec-
12 tronic services and products, and a reasonable portion of the costs
13 associated with building and maintaining the information system of the
14 public agency. The fee may be reduced or waived by the public agency
15 if the electronic services and products are to be used for a public
16 purpose, including public agency program support, nonprofit activi-
17 ties, journalism, and academic research. Fee reductions and waivers
18 shall be uniformly applied among persons who are similarly situated.

19 (c) Notwithstanding (b) of this section, the fee for duplicating
20 a public record in the electronic form kept by a public agency may not
21 exceed the actual incremental costs of the public agency.

22 (d) Public agencies shall include in a contract for electronic
23 services and products provisions that

24 (1) protect the security and integrity of the information
25 system of the public agency and of information systems that are shared
26 by public agencies; and

27 (2) limit the liability of the public agency providing the
28 services and products.

29 (e) Each public agency shall notify the state library

1 distribution and data access center established under AS 14.56.090 of
2 the electronic services and products offered by the public agency to
3 the public under this section. The notification must include a sum-
4 mary of the available format options and the fees charged.

5 (f) When offering on-line access to an electronic file or data
6 base, a public agency also shall provide without charge on-line access
7 to the electronic file or data base through one or more public ter-
8 minals.

9 (g) Each public agency shall establish the fees for the elec-
10 tronic services and products provided under this section. The Tele-
11 communications Information Council may cancel the fees established by
12 a public agency in the executive branch, including the Alaska State
13 Housing Authority, but not including the University of Alaska and the
14 Alaska Railroad Corporation, if the council determines that the fees
are unreasonably high.

16 (h) A public agency may not make electronic services and prod-
17 ucts available to one member of the public and withhold them from
18 other members of the public.

19 (i) A public agency other than a municipality or the Alaska
20 Railroad Corporation shall separately account for the fees received by
21 the agency under this section and deposited in the general fund. The
22 annual estimated balance in the account may be used by the legislature
23 to make appropriations to the agency to carry out the activities of
24 the agency.

25 * Sec. 5. AS 09.25.120 is amended to read:

26 Sec. 09.25.120. INSPECTION AND COPYING OF PUBLIC RECORDS. Every
27 person has a right to inspect a public [WRITING OR] record in the
28 state, including public [WRITINGS AND] records in recorders' offices
29 except (1) records of vital statistics and adoption proceedings which

1 shall be treated in the manner required by AS 18.50; (2) records
2 pertaining to juveniles; (3) medical and related public health re-
3 cords; (4) records required to be kept confidential by a federal law
4 or regulation or by state law; (5) to the extent the records are
5 required to be kept confidential under 20 U.S.C. 1232g and the regu-
6 lations adopted under 20 U.S.C. 1232g in order to secure or retain
7 federal assistance; (6) records or information compiled for law en-
8 forcement purposes, but only to the extent that the production of the
9 law enforcement records or information (A) could reasonably be ex-
10 pected to interfere with enforcement proceedings, (B) would deprive a
11 person of a right to a fair trial or an impartial adjudication, (C)
12 could reasonably be expected to constitute an unwarranted invasion of
13 the personal privacy of a suspect, defendant, victim, or witness, (D)
14 could reasonably be expected to disclose the identity of a confiden-
15 tial source, (E) would disclose confidential techniques and procedures
16 for law enforcement investigations or prosecutions, (F) would disclose
17 guidelines for law enforcement investigations or prosecutions if the
18 disclosure could reasonably be expected to risk circumvention of the
19 law, or (G) could reasonably be expected to endanger the life or
20 physical safety of an individual. Every public officer having the
21 custody of records not included in the exceptions shall permit the
22 inspection, and give on demand and on payment of the [LEGAL] fees
23 under AS 09.25.110 - 09.25.115 [THEREFOR] a certified copy of the
24 [WRITING OR] record, and the copy shall in all cases be evidence of
25 the original. Recorders shall permit memoranda, transcripts, and
26 copies of the public [WRITINGS AND] records in their offices to be
27 made by photography or otherwise for the purpose of examining titles
28 to real estate described in the public [WRITINGS AND] records, making
29 abstracts of title or guaranteeing or insuring the titles of the real

1 estate, or building and maintaining title and abstract plants; and
2 shall furnish proper and reasonable facilities to persons having
3 lawful occasion for access to the public [WRITINGS AND] records for
4 those purposes, subject to reasonable rules and regulations, in con-
5 formity to the direction of the court, as are necessary for the pro-
6 tection of the [WRITINGS AND] records and to prevent interference with
7 the regular discharge of the duties of the recorders and their employ-
8 ees.

9 * Sec. 6. AS 09.25 is amended by adding new sections to read:

10 Sec. 09.25.122. LITIGATION DISCLOSURE. A public record that is
11 subject to disclosure and copying under AS 09.25.110 - 09.25.120
12 remains a public record subject to disclosure and copying even if the
13 record is used for, included in, or relevant to litigation, including
14 law enforcement proceedings, involving a public agency, except that
15 with respect to a person involved in litigation, the records sought
16 shall be disclosed in accordance with applicable court rules. In this
17 section, "involved in litigation" means a party to litigation or
18 representing a party to litigation, including obtaining public records
19 for the party.

20 Sec. 09.25.123. SUPERVISION AND REGULATION. (a) The Telecommu-
21 nications Information Council shall supervise and adopt regulations
22 for the operation and implementation of AS 09.25.110 - 09.25.140 by
23 public agencies in the executive branch, including the Alaska State
24 Housing Authority, but not including the Alaska Railroad Corporation.

25 (b) The legislative council shall supervise and adopt procedures
26 for the operation and implementation of AS 09.25.110 - 09.25.140 by
27 public agencies in the legislative branch.

28 (c) The administrative director of courts shall supervise and
29 adopt procedures for the operation and implementation of

1 AS 09.25.110 - 09.25.140 by public agencies in the judicial branch.

2 (d) The Board of Regents of the University of Alaska shall
3 supervise and adopt procedures for the operation and implementation of
4 AS 09.25.110 - 09.25.140 by the University of Alaska.

5 (e) The regulations and procedures adopted under this section
6 must include the establishment of procedures for making an administra-
7 tive appeal of public agency action that is taken under AS 09.25.110 -
8 09.25.140.

9 (f) In this section,

10 (1) "action" includes the calculation of a fee, the denial
11 of a fee reduction or waiver and the denial of a request to inspect or
12 copy a public record;

13 (2) "public agency" does not include a municipality.

14 Sec. 09.25.124. APPEALS. A person may appeal to the superior
15 court the final administrative order made by a public agency under
16 AS 09.25.110 - 09.25.140.

17 * Sec. 7. AS 09.25.125 is amended to read:

18 Sec. 09.25.125. ENFORCEMENT: INJUNCTIVE RELIEF. A person having
19 custody or control of a public record who denies, obstructs, or at-
20 tempts to obstruct, or a person not having custody or control who aids
21 or abets another person in denying, obstructing, or attempting to
22 obstruct, the inspection of a public record subject to inspection
23 under AS 09.25.110 or 09.25.120 may be enjoined by the superior court
24 from denying, obstructing, or attempting to obstruct, the inspection
25 of public records subject to inspection under AS 09.25.110 or 09.25.-
26 120. A person may seek injunctive relief under this section without
27 exhausting the person's remedies under AS 09.25.123 - 09.25.124.

28 * Sec. 8. AS 09.25.220 is amended to read:

29 Sec. 09.25.220. DEFINITIONS. In AS 09.25.100 - 09.25.220

1 [AS 09.25.150 - 09.25.220], unless the context otherwise requires,

2 (1) "electronic services and products" means computer-
3 related services and products provided by a public agency, including

4 (A) electronic manipulation of the data contained in
5 public records in order to tailor the data to the person's re-
6 quest or to develop a product that meets the person's request;

7 (B) duplicating public records in alternative formats
8 not used by a public agency, providing periodic updates of an
9 electronic file or data base, or duplicating an electronic file
10 or data base from a geographic information system;

11 (C) providing on-line access to an electronic file or
12 data base;

13 (D) providing information that cannot be retrieved or
14 generated by the existing computer programs of the public agency;

15 (E) providing functional electronic access to the
16 information system of the public agency; in this subparagraph,
17 "functional access" includes the capability for alphanumeric
18 query and printing, graphic query and plotting, nongraphic data
19 input and analysis, and graphic data input and analysis;

20 (F) providing software developed by a public agency or
21 developed by a private contractor for a public agency;

22 (G) generating maps or other standard or customized
23 products from an electronic geographic information system;

24 (2) "news organization" means

25 (A) an individual, partnership, corporation or other
26 association regularly engaged in the business of

27 (i) publishing a newspaper or other periodical
28 that reports news events, is issued at regular intervals and
29 has a general circulation;

1 (ii) providing newsreels or other motion picture
2 news for public showing; or

3 (iii) broadcasting news to the public by wire,
4 radio, television or facsimile;

5 (B) a press association or other association of indi-
6 viduals, partnerships, corporations, or other associations de-
7 scribed in (A)(i), (ii), or (iii) of this paragraph engaged in
8 gathering news and disseminating it to its members for publica-
9 tion;

10 (3) [(2)] "privilege" means the conditional privilege gran-
11 ted to public officials and reporters to refuse to testify as to a
12 source of information;

13 (4) [(3)] "public official" means a person elected to a
14 public office created by the Constitution or laws of this state,
15 whether executive, legislative, or judicial, and who was holding that
16 office at the time of the communication for which privilege is claim-
17 ed;

18 (5) "public agency" means a political subdivision, depart-
19 ment, institution, board, commission, division, authority, public
20 corporation, council, committee, or other instrumentality of the state
21 or a municipality; "public agency" includes the University of Alaska,
22 the Alaska State Housing Authority, and the Alaska Railroad Corpora-
23 tion;

24 (6) "public records" means books, papers, files, accounts,
25 writings, including drafts and memorializations of conversations, and
26 other items, regardless of format or physical characteristics, that
27 are developed or received by a public agency, or by a private contrac-
28 tor for a public agency, and that are preserved for their information-
29 al value or as evidence of the organization or operation of the public

1 agency; "public records" does not include proprietary software pro-
2 grams;

3 (7) [(4)] "reporter" means a person regularly engaged in the
4 business of collecting or writing news for publication, or presenta-
5 tion to the public, through a news organization; it includes persons
6 who were reporters at the time of the communication, though not at the
7 time of the claim of privilege;

8 (8) "Telecommunications Information Council" means the
9 Telecommunications Information Council established under AS 44.19.502.

10 * Sec. 9. AS 12.62 is amended by adding a new section to read:

11 Sec. 12.62.031. ACCESS TO CRIME INFORMATION INVOLVING A CANDI-
12 DATE FOR PUBLIC OFFICE. (a) A member of the public may request from
13 the Department of Public Safety a record from this state listing each
14 criminal conviction involving an individual who has filed for public
15 office in the state. The Department of Public Safety shall first
16 provide a copy of the conviction record to the candidate. If within
17 14 days after receiving the record the candidate does not dispute the
18 accuracy of the record, the department shall release the record to the
19 person making the request. If within 14 days after receiving the
20 record the candidate disputes the accuracy of the record, the depart-
21 ment shall either (1) correct the record as requested by the candi-
22 date, or (2) notify the candidate that it does not agree with the
23 requested correction. If a dispute is not resolved within the 14-day
24 period, the department shall release the record to the person making
25 the request with the disputed portion marked as disputed and the
26 candidate's requested correction indicated on the record.

27 (b) The Department of Public Safety may establish by regulation
28 reasonable fees to cover the costs of researching and reproducing the
29 conviction record under (a) of this section.

1 * Sec. 10. AS 14.56.120(b) is amended to read:

2 (b) Each state agency shall notify the center of the creation of
3 all data published or compiled by or for it at public expense, includ-
4 ing automated data bases, and provide for its accessibility through
5 the center [,] unless the data is protected by the constitutional
6 right to privacy or is of a type stated by law to be confidential or
7 the agency is otherwise prohibited by law from doing so.

8 * Sec. 11. AS 18.50.310(f) is amended to read:

9 (f) Notwithstanding the provisions of AS 09.25.120, when 100
10 years have elapsed after the date of a birth, or 50 years have elapsed
11 after the date of a death, marriage, divorce, dissolution of marriage,
12 or annulment, the records of these events in the custody of the state
13 registrar become public records subject to inspection and copying as
14 provided in AS 09.25.110 - 09.25.140 [AS 09.25.110 AND AS 09.25.121 -
15 09.25.125].

16 * Sec. 12. AS 24.08 is amended by adding a new section to read:

17 Sec. 24.08.105. RECORD OF VOTES. The voting record for each
18 legislator shall be made available to any person on request. The
19 Legislative Affairs Agency shall keep voting records compiled annually
20 under this section on the agency data system and shall distribute
21 copies to all legislative information offices for a fee established
22 under AS 09.25.115.

23 * Sec. 13. AS 29.71 is amended by adding a new section to read:

24 Sec. 29.71.060. COPYRIGHTS. A municipality may hold the copy-
25 right for software created by the municipality or developed by a
26 contractor for the municipality, and may enforce its rights to protect
27 the copyright.

28 * Sec. 14. AS 40.21.030(a) is amended to read:

29 (a) In order to carry out the archival program, the state

1 archivist shall:

2 (1) negotiate for, acquire, and receive public records of
3 permanent value including public records of the state and political
4 subdivisions of the state and of defunct public agencies;

5 (2) establish and operate a state archival depository that
6 [WHICH] shall provide for the preservation, arrangement, repair,
7 rehabilitation, duplication, reproduction, description, and exhibition
8 of permanent public records or other documentary material transferred
9 to, or acquired by the state archivist;

10 (3) review and approve all agency records retention sched-
11 ules to identify and to ensure the preservation of those records
12 having permanent value;

13 (4) make permanent records under the supervision of the
14 archivist, other than those required by AS 09.25.120 to be kept confi-
dential, available for public use at reasonable times;

15 (5) for a fee established under AS 09.25.110 - 09.25.115,
16 make available to any person [FOR A REASONABLE FEE] copies of archival
17 material under AS 09.25.120;

18 (6) adopt a seal for official use and for certification of
19 record copies which copies shall have the same force and effect as if
20 made by the original custodian of the records;

21 (7) negotiate payment for the acquisition of public records
22 with the possessor of them;

23 (8) if negotiations under (7) of this subsection are unsuc-
24 cessful or if the person in possession of the public records is un-
25 willing to enter into those negotiations, arrange with the person in
26 possession for the microfilming of the records;

27 (9) accept gifts, bequests, and endowments for purposes
28 consistent with the objectives of this chapter;
29

1 (10) prepare inventories, indexes, catalogs, and other
2 finding aids or guides to facilitate the use of the archives;

3 (11) accept documents, including motion picture film, still
4 pictures, and sound recordings, that are appropriate for preservation
5 by the state as evidence of its organization, functions, policies,
6 decisions, procedures, and transactions.

7 * Sec. 15. AS 44.99 is amended by adding new sections to read:

8 ARTICLE 1A. PERSONAL INFORMATION IN PUBLIC RECORDS.

9 Sec. 44.99.020. NOTICE REGARDING PERSONAL INFORMATION. (a)

10 When a state agency requests personal information that may be included
11 in a public record directly from the person who is the subject of the
12 information, the agency shall give the person a written notice at the
13 time of the request that states

14 (1) the name and address of the agency;

15 (2) the citation of the statute or regulation that author-
16 izes the agency to request the information;

17 (3) a statement indicating whether the person is required
18 to supply the information;

19 (4) the consequences to the person, if any, of not provid-
20 ing all or part of the requested information;

21 (5) a statement of the agency's anticipated uses of the
22 information, including the agency's internal uses of the information
23 and disclosure of the information to other state agencies;

24 (6) the fact that the information may be subject to in-
25 spection and copying under AS 09.25.110 - 09.25.120; and

26 (7) a statement summarizing how a person may challenge
27 under AS 44.99.030 the accuracy or completeness of personal informa-
28 tion maintained by a state agency.

29 (b) An agency may provide the written notice required under (a)

1 of this section by

2 (1) placing the notice on the form used to request the
3 information from the person;

4 (2) giving the person the notice on a separate sheet that
5 accompanies the form used to request the information from the person;

6 (3) giving the person a statement in a pamphlet, booklet,
7 manual, or other printed matter at the time the information on the
8 person is requested; or

9 (4) prominently posting a sign containing the notice in a
10 prominent location so that the sign can be easily observed and read by
11 the person at the time the information is requested.

12 (c) This section does not apply to a request for information on
13 a person if

14 (1) the request is made by a peace officer; in this para-
15 graph, "peace officer" has the meaning given in AS 01.10.060;

16 (2) the person is the agency's employee;

17 (3) the information is related to litigation;

18 (4) the information is being collected by a public agency
19 when investigating a possible violation of law; or

20 (5) the information is not subject to inspection and copy-
21 ing under AS 09.25.110 - 09.25.120, even if the information is even-
22 tually subject to inspection and copying under AS 18.50.310(f).

23 Sec. 44.99.030. INFORMATION ACCURACY AND COMPLETENESS. (a) A
24 person who is the subject of personal information that is maintained
25 by a state agency and subject to public disclosure under AS 09.25.-
26 110 - 09.25.140 may challenge the accuracy or completeness of the
27 personal information.

28 (b) To challenge the accuracy or completeness of personal infor-
29 mation under (a) of this section, the person must file with the state

1 agency a written request that the personal information be changed.

2 The request must provide

- 3 (1) a description of the challenged personal information;
- 4 (2) the changes necessary to make the personal information
- 5 accurate or complete; and
- 6 (3) the person's name and the address where the department
- 7 may contact the person.

8 (c) Within 30 days after receiving a written request made under

9 (b) of this section, the state agency may request verification of the

10 disputed personal information from the person who made the request.

11 (d) Within 30 days after receiving the written request under (b)

12 of this section or the verification under (c) of this section, the

13 state agency shall review the request and

14 (1) change the personal information according to the re-

15 quest and notify the person in writing of the change; or

16 (2) deny the request and notify the person in writing of

17 the reasons for the decision and the name, title, and business address

18 of the person who denied the request.

19 (e) If a request is denied under (d) of this section, the person

20 may provide to the state agency a concise written statement that

21 states the person's reasons for disagreeing with the decision. The

22 state agency shall maintain in its records the request made under (b)

23 of this section and the statement provided by the person under this

24 subsection. On all of the state agency's records that contain the

25 disputed information, the state agency shall clearly note which por-

26 tions of the records are disputed. If the record is in electronic

27 form, the state agency may note the dispute in one field of the elec-

28 tronic form and maintain the other information about the dispute in

29 paper form.

1 (f) This section does not apply to criminal intelligence or
2 criminal investigative records, state agency personnel or retirement
3 system records, records of applicants for employment with the state
4 agency, or information in documents recorded under AS 40.17.

5 Sec. 44.99.040. DEFINITIONS. In AS 44.99.020 - 44.99.040,

6 (1) "person" means an individual;

7 (2) "personal information" means information that can be
8 used to identify a person and from which judgments can be made about a
9 person's character, habits, avocations, finances, occupation, general
10 reputation, credit, health, or other personal characteristics, but
11 does not include a person's name, address; or telephone number, if the
12 number is published in a current telephone directory, or information
13 describing a public job held by a person;

14 (3) "state agency" means a department, institution, board,
15 commission, division, authority, public corporation, committee, or
16 other administrative unit of the executive, judicial, or legislative
17 branch of state government, including the University of Alaska and the
18 Alaska State Housing Authority, but not including the Alaska Railroad
19 Corporation.

20 ARTICLE 1B. COPYRIGHTS BY STATE AGENCIES.

21 Sec. 44.99.050. COPYRIGHTS. A state agency may hold the copy-
22 right for software created by the agency or developed by a private
23 contractor for an agency, and may enforce its rights to protect the
24 copyright. In this section, "state agency" means a department, insti-
25 tution, board, commission, division, authority, public corporation,
26 committee, or other administrative unit of the executive, judicial, or
27 legislative branch of state government, including the University of
28 Alaska, the Alaska State Housing Authority, and the Alaska Railroad
29 Corporation.

1 * Sec. 16. AS 44.99.020, as enacted by sec. 15 of this Act, applies to
2 requests for personal information made by a state agency on or after the
3 effective date of this Act.

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Teleconference

April 25, 1990

CS HB 405, Public access to information.

TO TESTIFY; Please take in order

Representative Brown or Mary Core, staff

JEFF BUSH: will present amendments for Vital Stats, Dept. of Law, Public Safety

RAILROAD AMENDMENTS; Larry Houle or _____?

WENDY REDMOND; U of A amendment

MUNICIPALITY OF ANCHORAGE; Glenn Lundell proposed amendment
John McKay to testify against

NOTES;

Summary memo briefly reviews each amendment.

Fish and Game is going to propose "radical" amendments IN FINANCE COMMITTEE, however, if they go back on their word, Valerie Brown of the Wildlife Alliance is listening in on line and wishes to testify in opposition to their amendments.

KAY DOES NOT SUPPORT THE MOA AMENDMENTS. The others have received her approval.

DNR supports bill.

FURTHER REFERRAL; Finance

HOUSE VOTE; 34 Yeas
3 Nays

April 27, 1990 TELECONFERENCE

CS HB 405, Public access to information.

TO TESTIFY;

Representative Brown or Mary Core

AVAILABLE FOR QUESTIONS OR ISSUES;

John McKay
Paul Fleischer
Gail Horetski: DPS
Heather Flynn: MOA amendment issue
Paul Grant: ACLU

NOTES;

NEW LANGUAGE FOR CANDIDATE CRIME INFORMATION; Section 9, Page 11

Gail Horetski says Department has no objection. They do not need to change the fee language but warn that fees will be higher than others.

CS contains Amendments 1-5. (See amendments if your notebook, it is too hard to highlight the changes given all the deletions, etc.) It also contains Adams Amendment to eliminate "subcommittees" and changes the Injunctive Relief language to allow a person to seek injunctive relief without exhausting a public agencies remedies. Page 1, the "shoulds" have been changes to shall in (4) and (5).

See Senator Faiks amendment request. IF YOU DECIDE TO OPEN THIS CAN OF WORMS: Heather Flynn, John McKay, Paul Fleischer, Paul Grant and Glen Lundell all wish to testify. Recommendation: preserve status quo. The current ordinances have stood up in court. Most of the cases have come since Fink came into office, but the Daily News has won each time.

Kay understands that you are ready to move the bill out in the new CS format and doesn't expect you to have to spend much time on this MOA issue. She can handle a Judiciary referral if necessary. She does want the bill out of committee today (according to Mary Core).

FURTHER REFERRAL; Judiciary and Finance

HOUSE VOTE; 34 Yeas
3 Nays

April 18, 1990

CS HB 405, Public access to information.

NOTIFIED; * indicates will testify

*Representative Kay Brown

Bob Motznik

Dept. of Ed: State Library, Karen Crane

Dept. of Admin: Information Services, Paul Monette

Finance: Keith Busch

Dept. of Public Safety: Administrative Services, Ken Bischoff

*DNR: Management & Administration, Dianna Lyles

Fish & Game: Administration, Beverly Reaume

Dept. of Revenue: CSED Susan Goodman

DOT/PF: Information Services, Chuck Greeson

*Municipality of Anchorage: Glenn Lundell NOTE; HE IS PROPOSING AN AMENDMENT, SEE MOA LETTER IN PACKET.

* Gray Van Doren - North Star Borough Assembly, strongly support section relating to Legislative Voting Records.

FURTHER REFERRAL; Finance

HOUSE VOTE; 34 Yeas

3 Nays

NOTES:

- ① ON The latest amendment re: municipality excluded if the municipality has ordinances w/ similar provisions. JOHN M-KAY and/or Howard Weaver wish to testify on Amendment.

Section 1 provides findings and intent for the bill.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

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

DATE: April 9, 1990
TO: Senator Pat Pourchot
Chair, Senate State Affairs Committee
FROM: Representative Kay Brown
SUBJECT: CS HB 405 (Finance) am *Kay*

Thank you for scheduling CS HB 405 (Finance) am, which deals with public access to state and local government records, for a hearing in the Senate State Affairs Committee.

The Major provisions of the bill:

- o Govern access to and fees for obtaining public records. The provisions cover all agencies of the executive, legislative, judicial branches of state government, and of municipalities.
- o Establish discretionary authority for public agencies to offer to the public electronic services and products, and criteria for setting fees. The intent is that electronic services and products would be offered if there is sufficient public demand to generate enough fees (program receipts) to cover the costs.
- o Authorize state agencies and municipalities to copyright software.
- o Address privacy rights of individuals by requiring state agencies to inform individuals that personal information may be subject to public disclosure, and providing a process to correct inaccurate personal information in public files.
- o Define terms, including public records, electronic services and products, and personal information.

Please let me know if I can answer any questions about the bill. Thank you for your interest and support.

HB 405

Date: May 8, 1990

To: Senator Pourchot

From: Representative Kay Brown *Kay*

Re: SCS CS HB 405 (Finance) am, an act relating to requests for information by public agencies; relating to public access to and changes to the information of public agencies; and relating to the copyrighting of software produced by or for public agencies.

Changes in bill by Senate Finance Committee;

- o Deletes Sections on Municipal Personnel Records;
- o Deletes Access to Candidate's Conviction Records; and
- o Adds Fish and Wildlife Data Section (same as in House version);

Significant changes in the bill by Senate State Affairs Committee:

- o Deletes two separate sections of bill that were in conflict with the test the Dept. of Law uses in determining balance between confidential and public information;
- o Designates Board of Directors to adopt regulations for the Alaska Railroad;
- o Designates Board of Regents to adopt regulations for the University Alaska;
- o Specifies that information that is subject to disclosure, even if the information is relevant to litigation, remains subject to disclosure; and
- o Designates certain school records confidential in compliance with federal funding requirements.

Thank you for making the floor speech.

Prepared by Brown's
office. -

FLOOR SPEECH SCS CS HB 405 (Finance) am
5/8/90

Under present law an agency is prohibited from charging more than the cost of duplication for public records. This remains a workable system for requests for individual paper documents, but current law does not address a new category of products and services that have resulted from the proliferation of computer systems in state government.

This bill will allow public agencies to provide records and information in electronic format, and to charge a fee sufficient to cover the cost of doing so.

For example, the Department of Natural Resources has developed several geographic Information System databases, a technology that allows resource decisions to be made based on mapped information. Mining, oil, timber, and other resource development companies desire access to computerized resource and land title information.

Present
Law

DNR
example

This bill will enable DNR to provide the information in the form desired, and to recover the costs.

example
One database is the hydrography (land water interface) database of the entire Cook Inlet Region. A private sector company representing the oil industry has approached DNR requesting access to the hydrography (land water interface) database. DNR needs the legislation to establish a policy framework, for addressing requests of this type, and for setting appropriate fees.

Division of Mining
Many of the state records change daily. The Division of Mining has a computer terminal in its Anchorage office through which the public can access daily updated mining records. office. If this legislation is passed, the Division would be able to extend similar access by modem on a subscription basis and provide state wide access to the information.

Large projects, such as the proposed Yukon Pacific Corporation gas

line, would be able, for a fee, to compile information from several state databases, and using a geographic information system program, map land ownership, environmental considerations, and engineering details within one system. This bill would provide for less redundant data gathering for the private sector. It will provide consistency of data between the resource developer and the resource owner in the event of environmental accidents or concerns.

Many individuals have requested information from state agencies in disk format. To date there have been no uniform policies established to respond to these requests. Under the provisions of this legislation, state agencies will set fees for these services and the Telecommunication Information Council will set uniform regulations.

By adopting SCS CS HB 405 (Finance) State government can recover the costs of providing electronic information and can assist the private sector and members of the public who desire to obtain

public information in computer format.

Public information is vital to society. It is important for the state to establish an appropriate cost recovery and policy framework for the Information Age.

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: Wednesday, April 25 Committee Hearing
DATE: April 24, 1990

On Wednesday, April 25 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:
*Indicates bill will be teleconferenced.

SB 206, An Act relating to intrastate competition in telecommunications; continuing the existence of the APUC; and providing for an effective date.
Rescheduled to April 27

*CS HB 405. An Act relating to requests for information by public agencies, and relating to the copyrighting of software produced by or for public agencies. Sponsored by Representative Brown, this bill deals with public access to state and local government records. The major provisions of the bill are:

- .to govern access to and fees for obtaining public records, covering all agencies of state government and municipalities.
- .to establish discretionary authority for public agencies to offer to the public electronic services and products and criteria for setting fees, based on public demand and sufficient program receipts.
- .to authorize state agencies and municipalities to copyright software.
- .to address privacy rights of individuals by requiring state agencies to inform individuals that personal information may be subject to public disclosure and to provide a process to correct inaccurate personal information.

This is the second hearing for for this bill. Your packet contains the proposed State Affairs CS and six amendments. We are expecting an additional amendment from Department of Public Safety. The proposed amendments are numbered, briefly they include:

Amendment #1: Would allow the Bureau of Vital Statistics to continue set their own fees and exempt them from personal information notification because information will not be released for 50-75 years.

Amendment # 2: allows the Department of Law to rely on established court standards for what is public information.

Amendment # 3: corrects a problem the University of Alaska has had with federal law requiring student records to be confidential for students to be eligible for federal assistance, it removes U of A out from under TIC authority and it allows them to set their own fees.

+ FAIKS/McKay amendment

Amendment # 4: Removes the Alaska Railroad out from under TIC authority and allows them to set their own fees.

Amendment # 5: Allows Municipalities to be excluded from this act if they can demonstrate substantially similar ordinances.

Amendment # 6: Changes the presumption from "open records" to "confidential records" for municipalities.

Proposed DPS amendment: Requests additional voluntary information from candidates to reduce chance of error and has a liability clause to protect DPS from distributing incorrect information.

*CS HB 556. An Act relating to disaster emergencies and disaster and emergency relief and preparedness. This bill, sponsored by Representative Gruenberg, revises the Alaska Disaster Act. Major provisions of this bill are to limit legislative involvement to instances whereby the governor proposes to spend more than \$1 million to alleviate effects of disaster or \$500,000 to avoid a disaster or an amount that exceeds the Disaster Relief Fund's unallocated balance and clarification of the Governor's role in declaring a disaster emergency. Sections 3-17 are changes suggested by the Division of Emergency Services which revise and update statutes relating to disaster emergencies and preparedness.

SB 240. An Act relating to the notice requirements for the adoption, amendment or repeal of regulations. Sponsored by Senator Adams, this bill would provide state agencies the option of providing notice of regulation change by publication in a newspaper or by broadcasting by radio or television. Included in your packet are two amendments proposed by Senator Adams.

SB 517. An Act relating to initiative and referendum elections in home rule municipalities. Sponsored by the Community and Regional Affairs Committee, this bill would allow initiatives and referendum elections in home rule and general law municipalities to be passed on a simple majority basis.

CS HB 511 (SA) am. An Act making a special appropriation to reimburse the dividend fund in fiscal year 1990 for prisoner care money, sex offender treatment programs and the Violent Crimes Compensation Board. . .

Sponsored by Representative Boucher, this bill would authorize an immediate \$1.5 million appropriation to the dividend fund for deductions made in 1989 for Department of Corrections and Department of Public Safety programs. This would allow dividend recipients to be reimbursed for the 1989 deductions in their 1990 dividend check.

Alaska State Legislature



Senate Judiciary Committee

April 26, 1990

MEMORANDUM

TO: Senator Pat Pourchot, Chairman
Senate State Affairs Committee

FROM: Senator Jan Faiks 

SUBJECT: Amendment to HB 405

*Passed incorporated into
Final CS.*

Through the office of Representative Brown, I was provided with a copy of a letter to you from John McKay concerning an amendment to HB 405 regarding personnel records.

Following a subsequent telephone conversation with Terry Fleischer, I will be asking the State Affairs Committee to consider amending HB 405 per Mr. McKay's suggested language. For your reference, a copy is attached.

Thank you.

A M E N D M E N T

OFFERED BY FAIKS:

8

Adopted

OFFERED IN THE SENATE

TO: SCS CSMB 405(State Affairs) (6- 1782G, 4/12/90)

Page 12, following line 9:

Insert new bill sections to read:

"* Sec. 14. AS 29.10.200 is amended by adding a new paragraph to read:

(51) AS 29.20.650 (personnel records).

* Sec. 15. AS 29.20 is amended by adding a new section to read:

Sec. 29.20.650. PERSONNEL RECORDS. (a) The personnel records of a municipality are presumptively confidential and are not open to public inspection except (i) as provided in subsection (b) of this section; or (ii) when disclosure of such municipal records would not constitute an unwarranted invasion of an employee's right of privacy.

(b) The following information about the employees of a municipality is available for public inspection, subject to reasonable requirements on the time and manner of inspection:

(1) the names and position titles of all employees of the municipality;

(2) resumes and applications;

- (3) the position held by an employee;
- (4) prior positions held by an employee;
- (5) the dates ^{of} appointment and separation of an employee; and
- (6) the compensation actually paid to an employee, and the compensation authorized for any position.

(c) An employee of a municipality has the right to examine the employee's own personnel files and may authorize others to examine those files.

(d) This section applies to home rule and general law municipalities."

Renumber the following bill sections accordingly.

Page 17, line 12:

Delete "sec. 16"

Insert "sec. 18"

MEMORANDUM
DEPARTMENT OF NATURAL RESOURCES

STATE OF ALASKA
DIVISION OF MANAGEMENT

To: Senate State Affairs Committee

Date: April 23, 1990

The Department of Natural Resources has been pleased to work with the sponsor of HB405, and we strongly endorse the concepts of public access embodied in the bill. The current version, S_CS_CS_HB405 (State Affairs) lays a good framework for most categories of computer information, but DNR believes that the State's Geographic Information System (GIS) databases require the specific language found in this current version. GIS is a technology that allows resource decisions to be made based on mapped information, and on the statistical analysis of the resources graphically portrayed. As an example, ADNR is using their GIS database to quantify the marketable timber yield for the Susitna Basin.

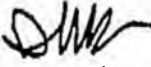
HB405 provides for necessary administrative inclusion of GIS database access under products and services, allowing for contractual relationships with the public requestors. This inclusion allows the agency to assure:

- * Necessary liability disclaimers,
- * Copyright protection, and
- * The requisite technology transfer that must accompany this complex and interpretive data.

The lesson being learned now is that once a "map" is in the computer, one can do an awful lot more than just plot it out again. You can calculate areas, strategize appropriate resource development, argue boundary interpretations, and take advantage of other new applications as they appear. Thoughtful contract language, associated with access requests, will protect the State from data liabilities not previously encountered in the production of agency products.

ADNR has submitted a \$10.0 fiscal note designed to defray the cost of expanding public access to the agency's GIS databases, through the authority to expend the program receipts generated by the product and service contracts.

I urge you to pass this bill out of committee with the sponsor's proposed amendments.

Submitted by: Dianne M. Lyles 
Division of Management
Land Records Information Section



American Civil Liberties Union

Alaska Civil Liberties Union -Legislative Committee-217 Second St. #204-Juneau, Alaska 99801

Ernie -

Here's the information on Sec. 10 of HB 405. ACLU objects strongly to the use of fingerprints as a "pre-employment" screening device. We see no reason why legislators have any lesser privacy rights than other folks. We don't want to inhibit people from running for office and we don't see any job qualifications that require a clean record.

We also object, in general, to release of criminal justice information in the absence of very stringent safeguards - which are set out in the attachment.

Please call if you have any other Q's.