

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86/2

10182 HOUSE COMMUNITY & REGIONAL AFFAIRS

27

two-year program **Update**

► *The Comprehensive Energy Plan Update* is designed to measure progress on the energy efficiency and renewable energy goals established for Iowa in 1990. Every two years, the Department of Natural Resources, with assistance from several state and national organizations, provides energy trends and program results in this document. While previous chapters of this *2000 Comprehensive Energy Plan Update* overviewed accomplishments from the last decade, this section discusses the specific achievements of the past two years in energy efficiency, renewable energy and energy education.

energy efficiency developments

Through improved lighting, better construction techniques and reduction of waste, Iowa's public facilities, residences and industries are saving significant amounts of money and energy.

Public Sector Efficiency

The goal of the Iowa Department of Natural Resources' (DNR) Building Energy Management (BEM) program is to improve energy efficiency in the state's taxpayer-supported facilities. Since its inception, BEM has helped public-sector buildings implement \$122 million in improvements with nearly \$17 million in annual cost savings. The three main programs for achieving these savings are the State of Iowa Facilities Improvement Corporation (SIFIC), the Iowa Energy Bank and Rebuild Iowa.

SIFIC, a nonprofit corporation providing state agencies with lease-purchase financing of energy-efficiency improvements, reached a major milestone in 1999. Because of the financial success of the program, the bond issue was called in for early redemption – 13 months prior to the original call-in date. The early redemption saved Iowa taxpayers nearly \$130,000 in interest.

Iowa's schools, hospitals, local governments and private colleges continue to achieve solid financial results through the Iowa Energy Bank. The strength of the program lies in the ability of energy improvements to pay for themselves through the decrease in a facility's utility bills. In the last two years the Energy Bank has enrolled more than 60 new clients in its program.

Rebuild Iowa began in 1996 as an extension of the U.S. Department of Energy's Rebuild America program. Iowa's initiative helps communities identify, implement and finance cost-effective improvements. By June 30, 1999 more than 905 buildings representing 228 building owners had enrolled in the program. Community participants currently include Cedar Falls, Harlan, LeMars, Webster City and Pella. An exciting landmark came in 1998 when Rebuild Webster City won the National Rebuild Partner of the Year Award from the U.S. Department of Energy.

Residential Energy Efficiency

Energy efficiency in homes is a key focus for several energy programs in Iowa. The Home Energy Rating System (HERS) is an important method for measuring energy efficiency in residences. In 1999, the state fire marshal acknowledged HERS as an approved program for complying with residential building energy codes in the state.

Residential efficiency programs often focus on education and training of building professionals. The Iowa DNR has hosted several workshops on building energy codes during the last two years. In 1999, the DNR received a grant to incorporate HERS into Rebuild Iowa. HERS will serve as a tool for increasing energy efficiency improvements in new and existing homes in Rebuild communities. Through the program, local residents will be trained as HERS raters, and improvements will be made by area contractors to keep business activity within local economies.

In the private sector, utilities continue to provide energy audits, rebates and free energy-

efficient equipment to Iowa households. Additionally, some homebuilders are beginning to incorporate energy efficiency techniques into their construction. In 1998, Skogman Homes, Cedar Rapids, won an Iowa Energy Leadership Award for committing to building all new homes to the Energy Star standards established by the Environmental Protection Agency (EPA). Skogman Homes, which builds around 120 homes a year, is the leading builder of energy-efficient homes in the state. In 1999, the north-central Iowa chapter of Habitat for Humanity, based in Mason City, won an Energy Leadership Award for building the first Habitat home in Iowa to meet U.S. EPA Energy Star Standards.



Skogman Construction Company, Cedar Rapids, is the largest builder of energy-efficient homes in Iowa. The company builds about 120 homes a year that meet EPA Energy Star Standards.

Commercial and Industrial Efficiency

The industrial sector is Iowa's greatest consumer of energy. Several programs focus on helping Iowa industries reduce waste and control energy inputs in their production processes.

The Industrial Assessment Center at Iowa State University provided 50 small and medium-sized manufacturers comprehensive industrial assessments during the last two years to improve productivity, reduce waste, and save energy. Additionally, the Total Assessment Audit (TAA) continues to be an important demonstration program sponsored by the Iowa Energy Center (IEC). Five Iowa industries are currently receiving TAAs through financial assistance from the IEC and professional expertise from several other organizations. The case studies are being prepared to demonstrate the effect TAA services can have on industries. The IEC has partnered with the Manufacturing Extension Partnership, under Iowa State University Extension, to move the program beyond case studies and into a statewide service.

renewable energy developments

"Homegrown" energy continues to be a growing industry in Iowa. Because of the state's natural resources and agricultural expertise, renewable energy has accelerated its position as a viable commodity and an important contributor to electricity and heat production in the state.

Wind Power

In 1999, 315 750-kW wind turbines in Buena Vista, Cherokee, and Cerro Gordo counties began generating electricity, making Iowa the third largest producer of power from wind, behind California and Minnesota. Enron Wind Corporation of Texas and FPL Energy Inc. of Florida installed the turbines, and MidAmerican Energy and Alliant Energy are purchasing the power generated. They are the largest turbines in the United States and are expected to provide between 590 million and 790 million kWh of electricity per year. Additionally, the wind farm in Buena Vista and Cherokee counties is the largest of its kind in the nation.

The wind farms came on the heels of a collaborative effort by seven Iowa municipal utilities from Algona, Cedar Falls, Ellsworth, Estherville, Fonda, Montezuma and Westfield to install three 750-kW wind turbines near Algona; the turbines are expected to produce more than five million kWh per year. Additionally, Waverly Light and Power purchased two 750-kW turbines located in Buena Vista County.

School districts in Iowa continue to be leaders in adopting wind energy for electricity production. In 1999, Forest City Community School District and Akron-Westfield Community School District each installed 600-kW wind

turbines projected to save a total of more than \$110,000 in annual energy costs. Clarion-Goldfield School District will also install a turbine to meet their electricity needs, and the Spirit Lake Community School District is seeking to add a second turbine to its facility.

With growing interest in wind power, more research is being conducted to understand potential in Iowa. The Iowa DNR contracted with Iowa State University to assess the effect turbines have on each other when grouped together on a wind farm. Data obtained from the study will be used in a software package to help wind developers design multiple-turbine arrays.

Switchgrass

Many Iowa organizations are continuing work to make switchgrass – a native Iowa prairie grass – an energy commodity in Iowa and the nation. Switchgrass' potential as an energy crop, its environmental benefits, and use in non-energy products such as fiberboard and paper make it a growing choice among some Iowa farmers for planting on marginal lands.

Plans are underway to co-fire switchgrass and coal in a test burn at Alliant Energy's Ottumwa Generating Station in spring of 2000. Besides burning switchgrass for energy, researchers at Iowa State University (ISU) are testing switchgrass gasification – using heat to transform switchgrass into a gas – and analyzing the theoretical performance of a fuel cell operated on gas made from switchgrass. ISU is also investigating ethanol production from switchgrass.

Iowa's main switchgrass demonstration site, coordinated by Chariton Valley RC&D, began conducting biomass cropping and wildlife impact projects in 1998. The demonstrations are designed to optimize switchgrass yields, enhance water quality, and protect wildlife habitat by testing a variety of switchgrass management strategies.

Chariton Valley RC&D has also contracted with the Center for Global and Regional Environmental Research to compare the greenhouse gas emissions of coal versus switchgrass from electricity production.

Methane Recovery

Methane recovery at livestock facilities is one of Iowa's most promising energy production technologies, helping to control odor, reduce the risk of pollution, decrease methane emissions and offset fossil fuel consumption.

In 1998, an Iowa advisory committee formed to support the development of a methane energy recovery program. The program demonstrates and promotes methane recovery at livestock confinements and other methane-producing operations in Iowa. Under the program, an anaerobic digester and methane-fired boiler were installed at Steve and Audrey Crawford's swine finishing operation near Nevada in 1998, becoming fully operational in spring of 1999. Work also began in 1998 on the installation of an anaerobic digester and engine generator at SWine USA, a newly constructed farrow-to-wean operation near Crestor.

Ethanol

Ethanol products are Iowa's most consumed renewable energy resources. In 1999, use of ethanol-blended gasoline by Iowa motorists averaged 43 percent. Success of the ethanol industry was sustained in 1998 through state and federal government decisions to extend ethanol tax incentives until the year 2007.

Iowa's first farmer-owned ethanol production plant began construction in fall of 1998. Sunrise Energy Cooperative of Blairstown will produce five to eight million gallons of ethanol annually, generating \$8 million in annual economic activity.

On a national level, the Governors' Ethanol Coalition (GEC) continues to promote ethanol in world markets. Governor Tom Vilsack served as the vice-chair in 1999 and will chair the GEC in 2000.

Currently, the Iowa DNR is working with Limestone Bluffs Resource Conservation & Development Area to conduct a pre-feasibility study investigating the potential of a cellulose-to-ethanol conversion plant in Iowa.

Biodiesel and Soy-Based Lubricants

Emerging petroleum replacements made from plant material include biodiesel and soy-based lubricants. The State of Iowa established a law in 1998 requiring state agencies to use biodegradable crop oils in government vehicles and equipment, as budgets allow.

In 1998 the Iowa DNR concluded a demonstration project at the WACO Community School District in which four buses used up to 70-percent biodiesel-blended fuel to study the advantages and disadvantages of the diesel alternative.

The Iowa Department of Transportation (DOT) has tested biodiesel for use in its maintenance vehicle fleet, using 34,350 gallons of soy oil in one project. In 1999, the DOT received funding from state appropriations to continue its biodiesel demonstrations.

The University of Northern Iowa (UNI) is one

of the nation's testing grounds for soy-based products. BioSOY, a replacement for hydraulic fluid, was developed by UNI's Ag-Based Industrial Lubricants (ABIL) Research Program. BioSOY has been demonstrated to perform as well as high-grade petroleum-based oil. ABIL also created Soy Trak, a biodegradable grease to reduce friction between train wheels and railroad tracks. Another product being patented is Bio Trans, a soybean-based oil developed for use in electrical transformers, fluid-filled transmission cables and other applications.

Another product helping to replace petroleum-based products is soy ink. Currently, about 99 million pounds of soybean oil are used to manufacture printing inks in the United States.

Hydropower

Iowa's first new hydropower project in decades came online in 1998. The Mitchell County Conservation Board, with financial assistance from the Iowa Energy Center's Alternate Energy Revolving Loan Program, worked to install two electric generators at the Mitchell Mill Dam on the Cedar River. The site's 600-kW electrical generating capacity will supply the energy use needs of up to 618 homes.

Solar

Solar technology is being studied and used on a limited scale in Iowa. In 1997 the Iowa DNR, with assistance from the National Renewable Energy Laboratory, completed a market assessment on solar thermal technology to dry corn, concluding that solar power used in conjunction with propane can be an economical choice.

The Iowa Department of Transportation (DOT) has begun to use solar-powered equipment along Iowa roadways. The DOT now employs more than 100 solar-powered message signs, traffic recorders, weigh-in-motion detectors, and Road Weather Information Systems throughout the state.

In 1999, the Iowa State University solar car, PrISUM, placed fifth in the national Sunrayce, an educational program culminating in a biennial cross-country race of solar-powered cars.

energy education

Iowa's educators and energy organizations are teaching students, professionals and citizens how to implement change in their management of energy resources. Following are examples of the

many efficiency and renewable energy education programs throughout Iowa.

Primary and Secondary Education

The Iowa DNR and the Center for Energy and Environmental Education (CEEE) created the annual Iowa Energy Summit in 1998, bringing together teams from Iowa high schools to research and debate policy about Iowa's energy future. Through their work, students improved their knowledge in areas such as energy efficiency, the economics and politics of energy, renewable energy, and the central position that energy plays in everyday life.

CEEE organizes several other energy education initiatives. The Iowa Energy Poster Contest targets students in grades one through six, increasing awareness of Iowa's renewable resources and energy efficiency. The Iowa Electrathon, first organized by CEEE and the Iowa Renewable Energy Association in 1997, teaches high school students how to build and race electric cars. Another initiative, a Model United Nations Summit on Climate Change, was co-sponsored in 1999 by the Iowa United Nations Association and the Stanley Foundation. The event targeted upper elementary, middle and high school students on the risks, challenges and solutions for climate change.

Several other organizations provide elementary energy education. MidAmerican Energy offers support materials and energy programs for teachers to use in the classroom. The Science Center of Iowa features exhibits with energy themes and offers an outreach program that introduces students to the properties of electricity.

University Education

The three state universities, Iowa State University, The University of Iowa, and University of Northern Iowa, work extensively in the research and development of energy efficiency and renewable energy. Examples include: geothermal heat pumps, methane recovery, building design, wind, alternative-fuel vehicles and agricultural applications. These research efforts have tremendous impact on the long-term use of energy in Iowa.

Universities and colleges are also providing energy-related educational opportunities. Des Moines Area Community College and Northeast Iowa Community College offer classes and associate degrees in energy-related fields. The Center for Sustainable Environmental Technologies (formerly the Center for Coal and the

Environment) at Iowa State University trains graduate students in renewable energy-related fields.

Another example of energy education is the University of Northern Iowa's "Rebuild the Cedar Valley Energy Conservation Program" in which students conduct community-wide energy audits for homes and small businesses.

Professional Training

In the area of professional training, the DNR sponsors several workshops on subjects such as building operator training, building energy codes, compressed air and motor efficiency, lifecycle cost analysis, new technologies and climate change. The IEC's Energy Resource Station provides extensive professional educational opportunities on topics ranging from geothermal heat pumps to building operations. The training efforts are continuous and provide a strong foundation for hands-on energy knowledge in the state.

In 1999, the Iowa Association of Municipal Utilities prepared *Tap Into Savings: How to Save Energy and Money in Your Water or Wastewater System*, a technology assessment report and workshop on energy efficiency in municipal facilities.

General Public

During the last two years, the DNR created an energy exhibit at the Iowa State Fair called *Prairie Grass Power* about the energy potential of switchgrass. In 1999, a methane digester demonstration appeared at the World Pork Expo and the Farm Progress Show. Additionally, CEEE, in cooperation with Cedar Falls Utilities, has a full-time energy educator who promotes energy efficiency and renewable energy to a variety of audiences. Other educational opportunities for the general public come in the form of conferences and seminars on efficiency and renewable energy sponsored by several Iowa organizations.

Organizations

For more information about energy efficiency or renewable energy, contact:

Iowa Department of Natural Resources- Energy Bureau

Wallace State Office Building
Des Moines, IA 50319
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Website: <http://www.ia.state.us/dnr/energy>
E-mail: sharon.tahtinen@dnr.state.ia.us

Ag-Based Industrial Lubricants

University of Northern Iowa
400 Technology Place
Waverly, IA 50677
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American Wind Energy Association

122 C Street NW - Suite 380
Washington, DC 20001-2109
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Website: <http://www.awea.org>
E-mail: windmail@awea.org

Center for Energy and Environmental Education

University of Northern Iowa
CEEE
Cedar Falls, IA 50614-0293
Telephone: (319) 273-2573
Website: <http://www.uni.edu/ceec>
E-mail: William.Stigliani@uni.edu

Center for Global and Regional Environmental Research

204 IATL
Iowa City, IA 52242
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Website: <http://www.cgrer.uiowa.edu/>
E-mail: jerald-schnoor@uiowa.edu

Center for Sustainable Environmental Technologies

286 Metals Development Building
Ames, IA 50011-3020
Telephone: (515) 294-7934
Website: <http://www.webbook2.ameslab.gov>
E-mail: biomass@iastate.edu

Chariton Valley Resource Conservation and Development

19229 Highway 5
Centerville, IA 52544
Telephone: (515) 437-4376
Website: <http://www.cvrcd.org>
E-mail: cvrcd@se-iowa.net

Council of Great Lakes Governors Regional Biomass Energy Program

35 E. Wacker Dr., Suite 1850
Chicago, IL 60601
Telephone: (312) 407-0177
Website: <http://www.cglg.org/projects/biomass/>
E-mail: fkuzel@cglg.org

The Energy Efficiency and Renewable Energy Clearinghouse

PO Box 3048
Merrifield, VA 22116
Telephone: (800) 363-3732
Website: <http://www.eren.doe.gov/>
E-mail: doe.erec@nciinc.com

Energy Rated Homes of Iowa

1001 South 18th Ave.
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Energy Resource Station

Des Moines Area Community College
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Ankeny, IA 50021
Telephone: (515) 965-7055
Website: <http://www.energy.iastate.edu>
E-mail: ers@energy.iastate.edu

GeoExchange Office

PO Box 769
Dubuque, IA 52004-0769
Telephone: (319) 582-5421 ext. 7507
Website: <http://www.alliantenergy.com>

Governors' Ethanol Coalition
PO Box 95085
Lincoln, NE 68509-5085
Telephone: (402) 471-2867
Website: <http://www.ethanol-gec.org>
E-mail: energy@mail.state.ne.us

Industrial Assessment Center and Center for Building Energy Research
409 Marston Hall
Iowa State University
Ames, IA 50011-2153
Telephone: (515) 294-3080

Iowa Association for Energy Efficiency
1735 NE 70th Ave; PO Box 725
Ankeny, IA 50021-9998
Telephone: (Patti Cale) (515) 289-1999
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Iowa Corn Promotion Board
1200 35th Street, #306
West Des Moines, IA 50266-1903
Telephone: (515) 225-9242
E-mail: corninfo@iowacorn.org

Iowa Department of Agriculture and Land Stewardship - The Office of Renewable Fuels and Co-Products
Wallace State Office Building
Des Moines, IA 50319
Telephone: (515) 281-6936
Website: <http://www.state.ia.us/agriculture/index.html>
E-mail: pat.paustian@idals.state.ia.us

Iowa Department of Natural Resources-Waste Management Assistance Division
Wallace State Office Building
Des Moines, IA 50319
Telephone: (515) 281-8645
Website: <http://www.state.ia.us/dnr/organiza/wmad/index.html>
E-mail: brent.lanier@dnr.state.ia.us

Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010
Telephone: (515) 239-1101
Website: <http://www.dot.state.ia.us>

Iowa Division of United Nations Association USA
20 E. Market Street
Iowa City, IA 52245
Telephone: (319) 337-7290
Website: <http://soli.inav.net/~unaiowa>
E-mail: unaiowa@inav.net

Iowa Energy Center
2521 Elwood Drive; Suite 124
Ames, IA 50010-8263
Telephone: (515) 294-8619
Website: <http://www.energy.iastate.edu>
E-mail: iec@energy.iastate.edu

Iowa Renewable Energy Association
P. O. Box 466
North Liberty, IA 52317-0466
Telephone: (319) 338-3200
Website: <http://www.irenew.org>
E-mail: irenew@irenew.org

The Iowa Sustainable Energy for Economic Development Coalition
3520 Beaver Avenue, Suite E
Des Moines, IA 50310
Telephone: (515) 277-5077 ext. 13
Website: <http://www.iowacan.org>
E-mail: ldaviscook@iowacan.org

Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319-0069
Telephone: (515) 281-5979
Website: <http://www.state.ia.us/iub>
E-mail: iub@max.state.ia.us

Iowa Waste Reduction Center
1005 Technology Parkway
Cedar Falls, IA 50613
Telephone: (319) 273-8905
Website: <http://www.iwrc.org>

**Izaak Walton League of America
Midwest Energy Efficiency Program**
1619 Dayton Ave; Suite 202
St Paul, MN 55104
Telephone: (651) 649-1446
Website: <http://www.iwla.org>
E-mail: billgrant@igc.org OR swelch@igc.org

Leopold Center for Sustainable Agriculture

Iowa State University
209 Curtiss Hall
Ames, IA 50011-1050
Telephone: (515) 294-3711
Website: <http://www.leopold.iastate.edu>
E-mail: leocenter@iastate.edu

National Renewable Energy Laboratory

1617 Cole Boulevard
Golden, CO 80401-3393
Telephone: (303) 275-3000
Website: <http://www.nrel.gov>
E-mail: client_services@nrel.gov

National Wind Coordinating Committee

1255 23rd Street NW, Suite 275
Washington, DC 20037
Telephone: (888) 764-WIND OR
(202) 965-6398
Website: <http://www.nationalwind.org>
E-mail: nwcc@resolv.org

Renewable Fuels Association

1 Massachusetts Ave. NW, Suite 820
Washington, DC 20001
Telephone: (202) 289-3835
Website: <http://www.ethanolRFA.org>
E-mail: etohrfa@erols.com

Solar Energy Industries Association

1111 N. 19th St. - Suite 260
Arlington, VA 22209
Telephone: (703) 248-0704
Website: <http://www.seia.org>
E-mail: solarsklar@aol.com

Trees Forever

770 7th Avenue
Marion, IA 52302
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Website: <http://www.treesforever.org>
E-mail: sramsay@treesforever.org

Union of Concerned Scientists

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Website: <http://www.ucsusa.org>
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utilities

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Cedar Rapids, IA 52406
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Website: <http://www.alliant-energy.com>

Iowa Association of Electric Cooperatives

8525 Douglas Avenue, Suite 48
Des Moines, IA 50322
Telephone: (515) 276-5350
Website: <http://www.iowarec.org>
E-mail: iowarec@netins.net

Iowa Association of Municipal Utilities

1735 NE 70th Avenue
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Telephone: (515) 289-1999
Website: <http://www.iamu.org>
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Iowa Utility Association

321 E. Walnut, Suite 300
PO Box 6007
Des Moines, IA 50309-6007
Telephone: (515) 282-2115
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MidAmerican Energy

PO Box 657
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Mr. Eric Wesselman, Field Representative, Union of Concerned Scientists

Note: The contents of this document do not necessarily reflect all opinions of the advisory committee.

HCR

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HCR 27
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Local Boundary Commission Procedu BRU _____
 Component _____
 Sponsor HCRA Component No. _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Bill Lawrence Committee Aide Phone 465-3882
 Division HCRA Date/Time 2/25/02 3:45 PM
 Approved by: Representative Morgan, Co-chair Date 2/25/2002
 Agency HCRA

HJR

18



Alaska State Legislature

Official Business

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Sponsor Statement for HJR 18 Constitutional Amendment on Municipal Annexations

In Alaska, our state constitution provides us with protection of our personal liberties in many areas. But ironically, that same constitution limits our protection from governmental encroachment by municipal boundaries. A local boundary commission established in the constitution is charged with the responsibility for determining the boundaries of the local governments.

Article X, Section 12, establishes two methods of boundary changes. One method is by direction of the Local Boundary Commission (LBC) subject to legislative disapproval (known as the Legislative Review process and it does not include a public vote). The second method is by "local action". Under both methods, the involvement of the LBC is mandatory. The legislature can request that certain procedures be followed by the commission, but it cannot dictate those procedures by legislation. The process itself is written into our state constitution, and it can only be changed or amended by the voters of the entire state at the ballot box.

HJR 16 proposes placing a constitutional amendment before the voters at the next general election that, if passed, would change the LBC procedures for bringing annexation proposals before the legislature. That change would require that the LBC proposal must first be approved by a majority of voters in the area to be annexed when the proposed annexation is greater than 10% in population or 10% in land area of the municipality proposing the annexation.

While some concerns of the municipalities regarding contiguous areas and the municipalities' provision of city services to those areas are valid, many Alaskans find that the current annexation process is inappropriate. Good public policy should provide for the consideration of the rights of all parties involved and should give those rights their due weight.

Alaska's current annexation process by Legislative Review does not provide for the consideration of the rights of all parties involved and HJR 16 seeks to remedy that problem. It may well be that many will think the 10% bar is too low, while others might argue that it should be even lower. That is an issue I am certain will be debated as the bill progresses through the committee process.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HJR 18
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title Constitutional amendment relating BRU Elections
to certain municipal annexations Component Elections
 Sponsor Representative Scalzi
 Requester House C&PA Component No. 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. If this measure requires the printing of an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenumial, Election Administrative Supervisor Phone 465-3935
 Division: Division of Elections Date/Time 2/14/02 5:03 PM
 Approved by: Lieutenant Governor Fran Ulmer Date 02/14/2002
 Agency: Office of the Lieutenant Governor

HJR

27

DRAFT

HOUSE JOINT RESOLUTION NO. ____

Urging the Local Boundary Commission to Adopt Regulations to Return Substantively Deficient Petitions in a Summary Manner

WHEREAS, it is in the best interests of the State of Alaska, petitioners, and affected local governments and citizens to resolve proposed local boundary changes expeditiously and in accord with Article X, Section 12 of the Constitution of the State of Alaska and implementing statutes and regulations; and

WHEREAS, from time to time, petitions for boundary changes filed with the Local Boundary Commission may be substantively deficient or in need of substantial amendment or supplementation to conform with constitutional, statutory, and regulatory provisions; and

WHEREAS, lengthy consideration of such petitions by the Local Boundary Commission may result in unnecessary expenditures of money, time, and other resources on the part of the State of Alaska, local governments, and citizens of the State; and also may result in needless public discord and strife; and

WHEREAS, the Local Boundary Commission has discretion under Article X, Section 12 of the Constitution of the State of Alaska to consider any proposed local government boundary change and also has a duty under AS 44.33.812 to establish standards and procedures for matters that come before the Commission; and

WHEREAS, the Local Boundary Commission has not established standards and procedures by which the Local Boundary Commission may return petitions that are substantively deficient or in need of substantial amendment or supplementation to petitioners for amendment or reconsideration.

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA, that the Local Boundary Commission is hereby urged to adopt standards and procedures that will enable it to return to the petitioner in a summary fashion any petition that the Local Boundary Commission determines is substantively deficient or in need of substantial amendment or supplementation to conform with applicable constitutional, statutory, or regulatory provisions.

HJR

32

3/26



REPRESENTATIVE FRED DYSON

Alaska State Legislature

MEMORANDUM

- Interim (May-Dec.) -
10928 Eagle River Rd., Suite 140
Eagle River, Alaska 99577
☎ (907) 694-6683
FAX (907) 694-1015

March 18, 2002

- Session (Jan-May) -
Alaska State Capitol
Juneau, Alaska 99801-1182
☎ (907) 465-2199
FAX (907) 465-4587

To: Representative Morgan, Co-Chair
House Community and Regional Affairs Committee

Toll free (800) 342-2199

From: Fred Dyson 
State Representative

RE: Request for scheduling HJR 32 for HCRA Committee

HJR 32 is a resolution related to naming and renaming Alaska geographic features.

I respectfully request scheduling of HJR 32 at your convenience.

Thank you.

- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>



Alaska State Legislature

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REPRESENTATIVE FRED DYSON

HJR 32, ALASKA NAMES FOR ALASKA PLACES

The names of Alaska's geographical features come from a variety of sources, many of which have no connection or relevance to Alaska or its peoples.

Another bill, HB 299, will allow the State Place Names Commission to begin to substitute relevant Alaskan names that are local Alaskan Native names, honor a local citizen, honor a famous Alaskan, uniquely describe an identifying feature, or describe a local event.

HJR 32 is a companion resolution to encourage the US Geological Bureau to follow the lead of the State Agency in renaming the features on Federal maps and documents.

Many of Alaska's geographical names were given by European explorers to honor a benefactor or curry favor with some powerful politician or ruler. Some of these people never saw Alaska or made any contribution to it. Most of the European explorers had no concept of recognizing the contributions and names used by Alaska's Native people who had been here for at least 10,000 years. Some of the American, Asian, Canadian, and European settlers who later came to Alaska made profound contributions to Alaska. It is far more fitting that our geographical place names should honor its people instead of the Alma Mater of some rich tourist on a quasi-scientific expedition.

Alaskans tend to give rivers, bays, glaciers, mountains and lakes far more descriptive names than did the Europeans. "Purgatory Creek" and "Murder Lake", are descriptive of conditions and events. "Looks like a Neck" is far more apropos than "Bainbridge Passage". "Place of the Last Great Battle" is much more colorful than "Green Lake".

Under the Alaska Native Lands Claim Act, Section H, a group under the US Department of the Interior, has done extensive work researching Native place names. The Native Language School at the University of Alaska in Fairbanks also has a large amount of similar information.

- E-mail -
Representative_Fred_Dyson
@legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>



Alaska State Legislature

HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Representative Carl Morgan
Co-Chairman
Committee Aide, Bill Lawrence
(907) 465-3882

Representative Kevin Meyer
Co-Chairman
Committee Aide, Lorali Meier
(907) 465-6588

Date: March 18

To: Committee Members and Staff

From: Committee Co-chair Staff

Re: HJR 32

HB 299 was noticed and is scheduled to be heard by the committee on 3/19. HJR 32 is a "companion measure" on the same subject. HJR 32 was inadvertently not scheduled. Accordingly, the committee cannot hear or act on this resolution. HJR 32 will be scheduled next week (3/26).

The packets for HJR 32, however, are being distributed today. We suggest you look at both bills as a unit. As such, should the committee choose to act on 3/26, minimal time will be necessary.



Alaska State Legislature

HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

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Alaska State Legislature

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10928 Eagle River Rd. Suite 140
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- Session (Jan.-May) -
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REPRESENTATIVE FRED DYSON

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- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original documents after microfilm reproductions have been made.

William J. Carter

Signature of Camera Operator

10/14/2003

Date

SB

4

22-LS0190\E
Cook
5/7/02

**HOUSE CS FOR CS FOR SENATE BILL NO. 4(CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION**

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATORS THERRIAULT, Wilken

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to optional exemptions from municipal property taxes on residential
2 property and limiting an optional exclusion or exemption to the assessed value of
3 \$10,000 for a residence in a municipality with a total bonded indebtedness that equals or
4 exceeds \$15,000 multiplied by the number of residents in the municipality; and
5 providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * Section 1. AS 29.45.050(a) is amended to read:

8 (a) A municipality may exclude or exempt or partially exempt residential
9 property from taxation by ordinance ratified by the voters at an election. An
10 exclusion or exemption authorized by this subsection may not be applied with
11 respect to taxes levied in a service area to fund the special services. An exclusion
12 or exemption authorized by this subsection [SECTION] may not exceed the assessed
13 value of \$10,000 for any one residence in a municipality with a level of total

1 bonded indebtedness that equals or exceeds \$15,000 multiplied by the number of
2 residents in the municipality. Otherwise, an exclusion or exemption authorized
3 by this subsection may not, for any one residence, exceed the greater of the
4 following amounts:

5 (1) the assessed value of \$15,000 or 20 percent of the assessed value
6 of the residence, whichever is less; or

7 (2) the assessed value of \$10,000.

8 * Sec. 2. AS 29.45.050 is amended by adding a new subsection to read:

9 (q) A municipality may by ordinance exempt from taxation an amount not to
10 exceed \$10,000 of the assessed value of real property owned and occupied as a
11 permanent place of abode by a resident who provides in the municipality volunteer (1)
12 fire fighting services and is certified as a fire fighter by the Department of Public
13 Safety, or (2) emergency medical services and is certified under AS 18.08.082. If two
14 or more individuals are eligible for an exemption for the same property, not more than
15 two exemptions may be granted.

16 * Sec. 3. This Act takes effect January 1, 2003.

Alaska State Legislature

SENATOR
GENE THERRIALT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884

Senate District Q

CS SB 4(RLS) am "An Act relating to optional exemptions from municipal property taxes on residential property and limiting an optional exclusion or exemption to the assessed value of \$10,000 for a residence in a municipality with a total bonded indebtedness that equals or exceeds \$15,000 multiplied by the number of residents in the municipality; and providing for an effective date."

Sponsor: Senator Gene Therriault

Sponsor Statement

Senate Bill 4 stems from discussions in 2000 over the ballot measure proposing a 10 mill cap on property taxes. During debate leading up to the election, many residents expressed their belief that property owners bear an unfair portion of government expenses. Senate Bill 4 raises the ceiling on the amount a municipality may offer in residential property tax exemptions.

Under current law, municipalities may exempt up to \$10,000 of the assessed value of any single residential property. For example, if a house has an assessed value of \$100,000, the municipality would assess taxes on \$90,000. Five municipalities offer this exemption: Kenai, Bristol Bay, the Fairbanks North Star Borough, the North Slope Borough and Valdez. All except the Fairbanks North Star Borough give an across-the-board \$10,000 exemption, regardless of the value of the property. The North Star Borough allows an exemption of 20 percent of the assessed value of the residence, up to a maximum of \$10,000.

SB 4 continues the \$10,000 residential exemption for all municipalities. In addition, it allows those municipalities in which the total per capita bonded indebtedness is less than \$15,000 to exempt an additional \$5,000, up to a total of \$15,000, or 20% of the assessed value of the residence, whichever is less. As is currently the case, the exemption is optional and up to the discretion of local taxing authorities. Considering that the current \$10,000 cap has been on the books since 1974, I believe it is time to look at adjusting the property exemption allowance to give local governments more flexibility in their taxing decisions. Section (q) adds a new section allowing municipalities the option of extending the amount of the property tax exemption by an additional \$5,000 per resident in the household, up to two people, for residents who are certified as volunteer firefighters or paramedics.

1
4

Earlier versions of SB 4 included a provision to allow local governments to prorate taxes part way through a tax year when someone who qualifies for a tax exemption sells property to someone who does not qualify. This provision was deleted following concerns raised by local tax assessing offices regarding difficulties in implementing this section.

Sectional Analysis
CS SB 4(RLS) am LS0190\M.A

Section 1 AS 29.45.050

(a) Current law allows municipalities to exempt or partially exempt residential property from taxation by ordinance ratified by voters at an election.

Page 1, Lines 9-11 Adds a sentence specifying that the exemption may not be applied with respect to taxes levied in a service area to fund special services. This sentence was added last year in Senate Finance in response to concerns that SB 4 would impact revenues levied by service areas for special services.

Page 1, Line 13 through Page 2, Line 2 Allows a municipality with a level of total bonded indebtedness that equals or exceeds \$15,000 multiplied by the number of residents in the municipality to exempt up to \$10,000 for any one residence.

Page 2, Line 2 through Line 7 Allows all other municipalities to exempt:

- A maximum of \$10,000 of assessed value for residences with a value up to \$50,000
- A maximum of 20 percent of the assessed value for residences with a value of more than \$50,000, up to a maximum of \$15,000

(q) Adds a new section allowing municipalities the option of exempting up to \$5,000 of the assessed value of a residence owned and occupied by a resident who is certified as a volunteer firefighter or volunteer EMS professional. If two or more individuals are eligible for an exemption for the same property, not more than two exemptions may be granted.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSSB4(2dFIN)
(S) Publish Date: 4/22/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Municipal Property Tax Exemption BRU: Revenue Operations
Component: Tax Division
Sponsor: Senator Therriault
Requester: Senate Rules Committee Component No.: 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(200.0)	(200.0)	(200.0)	(200.0)	(200.0)	(200.0)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Page 2.

Prepared by: Dan Dickinson, Director Phone 269-1033
Division: Tax Division Date/Time 4/10/02 1:06 PM
Approved by: Larry Persily, Deputy Commissioner Date 4/10/2002
Agency: Department of Revenue

**Department of Revenue
Fiscal Note Explanation for CSSB 4(2d FIN) #5**

April 10, 2002 - Page 2 of 2

This legislation would allow some municipalities to increase -- by a vote of the public -- the residential property tax exemption from the current \$10,000 per residence to \$15,000 per residence, or 20% in assessed value per residence, whichever is less. This legislation also would allow municipalities to exempt from taxation up to \$5,000 in assessed valuation of real property for each owner and occupant of a residence who serves as a volunteer firefighter or emergency medical services volunteer.

This could have an indirect effect on state revenues if municipalities increase their residential property assessment exemption and then increase their overall mill rate to make up for the lost revenue.

Under AS 43.56, the state imposes a 20-mill tax on oil and gas property in the state. If the municipality in which the oil and gas property is located also has a property tax, the taxpayer is allowed a credit for any local taxes before paying the state tax. For example, assume oil and gas property valued at \$1 million is located in a borough with a 15-mill tax rate. The taxpayer would pay \$15,000 to the locality. When it files its state taxes it has an obligation of \$20,000 (the 20-mill rate), offset by a tax credit of \$15,000, so it would send a check for \$5,000 to the state. Therefore, if the mill rates increase because of this legislation in localities that have extensive oil and gas production property, oil and gas taxpayers will pay more to the localities and less to the state.

The projected \$200,000 annual cost to the state of this legislation assumes that all of the localities that already grant the \$10,000 residential exemption would increase it to \$15,000 and would want to replace all of the revenues they would lose from the increased exemption. The \$200,000 cost also assumes that the municipalities would use an increased mill rate to replace the lost revenues -- thereby reducing state oil and gas property tax collections.

The \$200,000 estimate is a maximum.

It also should be noted that we have not included the North Slope Borough in our calculations for this legislation because the borough would be excluded from the option of increasing the property tax exemption above \$10,000 per residence. Sec. 1 of the bill says a municipality may not adopt a property tax exemption in excess of \$10,000 per residence if the municipality has a "level of total bonded indebtedness that equals or exceeds \$15,000 multiplied by the number of residents in the municipality." The North Slope Borough is the only municipality in Alaska that exceeds that limit at this time.

SB

78

Subject: Senate Keeps HAMS Operating

Date: Tue, 20 Mar 2001 15:58:10 -0900

From: Laura Achee <Laura_Achee@legis.state.ak.us>

Organization: Alaska State Legislature

Alaska State Legislature

Senator Robin Taylor

District A

For Immediate Release: March 20, 2001

Contact: Sen. Robin Taylor, (907) 465-3873

Senate Keeps HAMS Operating

(JUNEAU) – The Alaska Senate passed legislation today ensuring that municipalities will give amateur radio operators reasonable zoning allowances to help keep them on the air.

“When disaster strikes in Alaska, our amateur radio operators, or HAMS, are there,” said Sen. Robin Taylor (R-Wrangell). “Within 15 minutes of the Good Friday earthquake in 1964, a Valdez radio operator was broadcasting damage reports and calls for aid. This commitment continues today. Amateur radio operators assisted with emergency communications during the Miller’s Reach fire in 1996, and the avalanches in Turnagain Pass and on the Thane Road in Juneau last spring.”

In 1985 the Federal Communications Commission (FCC) issued a rule that requires zoning authorities to reasonably accommodate amateur radio operators’ antenna needs. Senate Bill 78, sponsored by Taylor, would follow 10 other state legislatures by supporting this federal rule.

SB 78 would not allow municipal restrictions on radio antenna heights to be lower than the established FCC guidelines as outlined according to population density for a given area. The legislation would also allow radio antennas that are already built to remain if municipalities pass new zoning restrictions.

“Alaska is a vast country and when disaster strikes, quick and reliable communication is essential for saving lives and getting communities re-connected to the state as quickly as possible,” said Taylor. “Because of the key role our amateur radio operators play in our communications system, it is in the best interest of the state to help keep them on the air.”

###



The national association
for **AMATEUR RADIO**



Section Manager

Larry "Kent" Petty, KL5T
21440 Falling Water Circle, Eagle River, AK 99577
907-694-5856 kl5t@arrrl.net

February 15, 2001

Senator Robin Taylor
State Capitol, Room 30
Juneau, AK 99801-1182

Dear Senator Taylor,

We, the members of the Alaska amateur radio community (over 3000 strong), are asking for your support in passing Senate Bill Number 78, entitled, "An Act relating to municipal regulation of radio antennas." This is a state affirmation of a 1985 rule issued by the Federal Communications Commission entitled PRB-1. As the federal rule says, our proposal simply requires that local zoning authorities reasonably accommodate the antenna needs of Amateur Radio operators. We are not attempting to "blaze" new territory. Ten states have already adopted state "PRB's," and others are in the drafting stage now. The language of the bill ensures that the minimal technical requirements to conduct amateur communications are preserved.

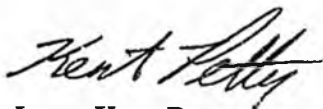
Your support of Amateur Radio operators in Alaska is important. Ham radio operators are valuable assets to the community. Historically, the Amateur Radio service has been at the forefront of communication technology. The concept of broadcasting began when listeners overheard amateur stations exchanging weather reports and baseball scores. The first land mobile systems were built by amateurs. Amateurs built the first single-sideband radios and the first handheld radios were built by amateurs. Even present day cellular telephone technology had its origins in amateur packet radio. There is an Amateur Radio station on the International Space Station to communicate with school children.

When a disaster strikes, Amateur Radio is there to assist with relief operations immediately. In 'ALASKA'S DARKEST HOUR' on that Good Friday in 1964, Amateur Radio operators were there and they did their job. We must admire the strength of that operator in Valdez, who was able to get on the air with damage reports and calls for aid, 15 minutes after losing his teenage son to the tsunami. Please read the account and service of Radio Amateurs in "The Alaska Story" from QST July 1964 attached to this letter. "Ham" Radio is as Alaskan as sourdough.

Amateur radio operators continue to practice their craft and directly support emergencies such as the Miller's Reach Fire, the Juneau/Thane Avalanche, and the Turnagain Pass Avalanche. They team with and work side-by-side with government agencies and officials during mass casualty and other disaster preparedness drills. They donate thousands of hours of support volunteering their time and equipment to provide communications for such public events as the Iditarod, Anchorage Fur Rendezvous, Walk for Hope, the Yukon Quest, and countless others.

Your support of this bill is critical to our ability to provide emergency and public service communications support to a wide array of customers throughout Alaska, the United States, and the world when needed – typically with no notice and when least expected.

Respectfully and Most Sincerely,

A handwritten signature in cursive script that reads "Larry Kent Petty".

Larry Kent Petty
Amateur Radio Station KL5T
Alaska Section Manager
American Radio Relay League (ARRL)

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 28, 2001

SUBJECT: Municipal regulation of radio antennas. (SB 78)

TO: Senator Robin Taylor
Attn: Darrell Thomas

FROM: Tamara Brandt Cook *TBC*
Director

Here is the sectional summary you requested.

Sec. 1. Makes the new provision in sec. 2 of the bill a home rule limitation.

Sec. 2. Requires a municipality that regulates radio antennas to reasonably accommodate amateur radio antennas. The municipality may require reasonable and customary engineering practices to be followed in the erection of amateur radio antennas and may not restrict the number of support structures for an antenna. Sets limits as to height restrictions that a municipality may place on amateur radio antennas. Within the restrictions set out, permits a municipality to impose requirements to meet clearly defined objectives with respect to the erection, maintenance, and operation of amateur radio antennas.

TBC:lmb:glc
01-064.lmb

Alaska State Legislature



Chairman,
Judiciary Committee

Vice-Chairman,
Administrative Regulations
Revenue Committee

Member,
Transportation Committee
Resources Committee

Senator Robin L. Taylor

SPONSOR STATEMENT SB 78

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

50 Front Street
Suite 203
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

SB 78 is a state affirmation of a 1985 rule issued by the Federal Communications Commission entitled PRB-1. As in the federal rule, this bill simply requires that local zoning authorities reasonably accommodate the antenna needs of Amateur Radio operators. This bill is not attempting to blaze new trails. Ten states have already adopted state "PBR's", and others are in the drafting stage now. The language of this bill ensures that the minimal technical requirements to conduct amateur communications are preserved.

Our support of Amateur Radio operators in Alaska is important. Ham radio operators are valuable assets to the community. Historically, the Amateur Radio service has been at the forefront of communication technology. The concept of broadcasting began when listeners overheard amateur stations exchanging weather reports and baseball scores. The first land mobile systems were built by amateurs. Amateurs built the first single-sideband radios and the first handheld radios were built by amateurs. Present day cellular telephone technology had its origins in amateur packet radio. There is an Amateur Radio station on the International Space Station to communicate with school children.

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Amateur radio operators continue to practice their craft and directly support emergencies such as the Miller's Reach Fire, the Juneau/Thane Avalanche, and the Turnagain Pass Avalanche. They team with and work side by side with government agencies and officials during mass casualty and other disaster preparedness drills. They donate thousands of hours of support volunteering their time and equipment to provide communications for such public events as the Iditarod, Anchorage Fur Rendezvous, Walk for Hope, the Yukon Quest and countless others.

SB78 would give them the ability to provide emergency and public service communications support to a wide array of customers throughout Alaska, the United States and the world when needed, typically with no notice.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangeli
E-mail: Senator_Robin_Taylor@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 78
 () Publish Date: _____

Revision Date/Time (Note if correction): 03/02/2001 2:55p.m. Dept. Affected: DCED
 Title: Municipal regulation of radio antennas BRU: Comm. Asst & Econ. Dev.
 Component: Community and Business Development
 Sponsor: Senator Taylor Component Number: 2486
 Requester: Senate CRA

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would have no fiscal impact on the department.

Prepared by: Pat Poland, Director
 Division: Community and Business Development
 Approved by: Commissioner Deborah B. Sedwick
 Agency: Department of Community & Economic Development

Phone 269-4580
 Date/Time 03/02/2001 2:55p.m.
 Date 3/5/2001

For distribution information, call the Governor's Legislative Office

Alaska State Legislature

Senator Robin Taylor

District A

State Capitol Rm 30, Juneau, Alaska 99801-1182 Phone (907)465-3873 Fax (907)465-3922



Memorandum

TO: Representatives Morgan and Meyer, Co-Chairs
House Community & Regional Affairs

FROM: Senator Robin L. Taylor

DATE: March 27, 2001

RE: SB 78 – Request for Hearing

SB 78 has been referred to House Community & Regional Affairs. I respectfully request that this bill be scheduled for hearing at your earliest convenience.

We have enclosed a copy of the Sponsor Statement and the Fiscal Note.

Should you have questions ^{or} need additional information, please call me at Ext. 3717.

Thank you for your consideration.

Darrell Thomas
Special Projects

ket - anc - kenai - FBx

Alaska State Legislature



Chairman,
Judiciary Committee

Vice-Chairman,
Administrative Regulations
Revenue Committee

Member,
Transportation Committee
Resources Committee

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

50 Front Street
Suite 203
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor

SPONSOR STATEMENT SB 78

SB 78 is a state affirmation of a 1985 rule issued by the Federal Communications Commission entitled PRB-1. As in the federal rule, this bill simply requires that local zoning authorities reasonably accommodate the antenna needs of Amateur Radio operators. This bill is not attempting to blaze new trails. Ten states have already adopted state "PBR's", and others are in the drafting stage now. The language of this bill ensures that the minimal technical requirements to conduct amateur communications are preserved.

Our support of Amateur Radio operators in Alaska is important. Ham radio operators are valuable assets to the community. Historically, the Amateur Radio service has been at the forefront of communication technology. The concept of broadcasting began when listeners overheard amateur stations exchanging weather reports and baseball scores. The first land mobile systems were built by amateurs. Amateurs built the first single-sideband radios and the first handheld radios were built by amateurs. Present day cellular telephone technology had its origins in amateur packet radio. There is an Amateur Radio station on the International Space Station to communicate with school children.

When disaster strikes, Amateur Radio is there to assist with relief operations immediately. On Good Friday in 1954, Amateur Radio operators were there. We must admire the strength of that operator in Valdez, who was able to get on the air with damage reports and calls for aid, 15 minutes after losing his teenage son to the tsunami.

Amateur radio operators continue to practice their craft and directly support emergencies such as the Miller's Reach Fire, the Juneau/Thane Avalanche, and the Turnagain Pass Avalanche. They team with and work side by side with government agencies and officials during mass casualty and other disaster preparedness drills. They donate thousands of hours of support volunteering their time and equipment to provide communications for such public events as the Iditarod, Anchorage Fur Rendezvous, Walk for Hope, the Yukon Quest and countless others.

SB78 would give them the ability to provide emergency and public service communications support to a wide array of customers throughout Alaska, the United States and the world when needed, typically with no notice.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

E-mail: Senator_Robin_Taylor@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

No. 1
Bill Version: SB 78
(S) Publish Date: 3/15/01

Revision Date/Time (Note if correction): 03/02/2001 2:55p.m. Dept. Affected: DCED
Title: Municipal regulation of radio antennas BRU: Comm. Asst & Econ. Dev.
Component: Community and Business Development
Sponsor: Senator Taylor Component Number: 2486
Requester: Senate CRA

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would have no fiscal impact on the department.

Prepared by: Pat Poland, Director Phone 269-4580
Division: Community and Business Development Date/Time 03/02/2001 2:55p.m.
Approved by: Commissioner Deborah B. Sedwick Date 3/5/2001
Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

S B

8 8

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

*P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-2075*

April 16, 2001

The Honorable Vic Kohring, Chair
and Members, House Transportation Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801

RE: SB 88 – An Act relating to metropolitan planning organizations and to establishment of a metropolitan planning organization for the Anchorage metropolitan area; and providing for an effective date.

Dear Representative Kohring and Committee Members:

Your committee is scheduled to consider SB 88 – Relating to metropolitan planning areas during its hearing on Tuesday, April 17. In previous hearings on this bill, and its predecessors, the Department of Law has expressed its serious concerns about the provision that calls for the appointment of two legislators to the Anchorage Metropolitan Area Transportation Study (AMATS) board. We feel that this provision violates the dual office holding prohibition in the Alaska Constitution.

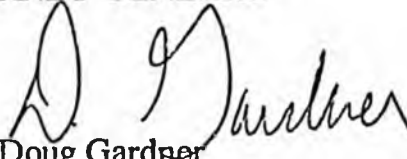
For your information, I have enclosed a recent letter from Assistant Attorney General William F. Cummings to Senator Jerry Ward in which he discusses this concern more fully. Attached to Mr. Cummings' letter are three Attorney General opinions that also discuss the Alaska Constitution's prohibition on dual office holding.

The Honorable Vic Kohring
Members, House Transportation Committee
April 16, 2001
Page 2

Although I will not be able to attend the hearing on Tuesday, April 17, because of a prior commitment related to ongoing litigation, I will be happy to answer questions that you may have about this issue. You may call me at 907-465-6712 or Assistant Attorney General Jim Cantor at 907-269-5160.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Doug Gardner
Assistant Attorney General

Enclosures

cc: Senator Randy Phillips
Michael Abbott, Legislative Director, Office of the Governor
Dennis Poshard, Legislative Liaison, Department of Transportation
and Public Facilities
Deborah Behr, Legislation Attorney, Department of Law
Crystal Stillings Smith, Legislative Liaison, Department of Law

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

P.O. BOX 110300
DIMOND COURT HOUSE, 6TH FLOOR
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-6735

March 14, 2001

The Honorable Jerry Ward
Alaska State Senate
State Capitol, Room 423
Juneau, AK 99811

Re: SB 88 relating to metropolitan planning organizations and the metropolitan planning organization for the Anchorage metropolitan area

Dear Senator Ward:

On February 20, 2001, I testified before the Senate Transportation Committee that the provisions of SB 88 that appoint a senator and a representative to sit on the Anchorage area metropolitan Transportation Study board violate the dual office holding provisions of the Alaska Constitution. At the end of my testimony you asked that I put my conclusion in writing.

Art. II, § 2 of the Alaska Constitution provides:

SECTION 5. DISQUALIFICATIONS. No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

(Emphasis added). Under these provisions a member of the legislature may not hold any other office during the member's term. Similar provisions prohibiting dual office holding exist for the governor in Art. III, § 6, and for justices of the supreme court and judges under Art. IV, § 14.

The Department of Law has issued three formal attorney general's opinions regarding dual office holding, which I have enclosed with this letter. In the past inter-branch task forces, have been formed to assemble and disseminate information, but did not assume any

The Honorable Jerry Ward
Re: SB 88

March 14, 2001
Page 2

duties assigned any branch of government. These sorts of bodies have not been seen to violate the constitution's prohibitions against dual office holding. On the other hand, if a legislator, or a judge, holds a position in an executive branch agency or a political subdivision, and the duties of the position require the office holder to take action regarding the management of the agency, the prohibition against dual office holding is violated.

Under SB 88, a senator and a representative will be appointed to sit on the board that allocates federal surface transportation money in the Anchorage area. (At the present time there are three voting members of the board appointed by the mayor of Anchorage and two state employees, who sit in an advisory capacity.) Under the bill, the board's composition and functioning change. Three members voting members will still be appointed by the mayor. In addition, two voting members would be appointed by the governor, and two voting members by the presiding officers of the Senate and the House of Representatives, a senator and a member of the House of Representatives whose districts include at least a portion of the Municipality of Anchorage. A quorum of the board is a majority of the voting members.

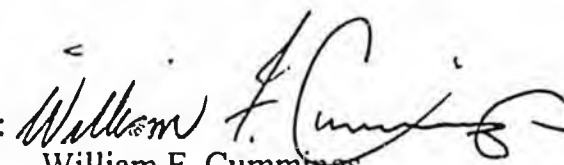
5 voting
4 DEC
2 govt DOT
2 assoc'd
members
1 mayor

We believe that the prohibition against dual office holding by legislators would be violated. The board would be making decisions on which projects will receive allocated federal money, when they will receive it, and in what order specific projects will be built. These functions are clearly more than collection or dissemination of information and under current practice, these functions are clearly municipal managerial responsibilities.

If you have any questions on this matter, please feel free to contact me.

Sincerely yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
William F. Cummings
Assistant Attorney General

WFC:pvp

Enclosure(s)

cc: Mike Abbott, Legislative Director
Deborah Behr, Dept. of Law
Chrystal Smith, Dept. of Law
Don Smith, Senate Transportation Committee
Senator Randy Phillips, Attn: Kim Ross

THE
FOLLOWING
DOCUMENT(S)
ARE
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ORIGINAL
COPIES

STATE OF ALASKA

DEPARTMENT OF LAW

OPINION NO. 26
JAY S. HAMMOND, GOVERNOR

June 29, 1976

The Honorable Lowell Thomas, Jr.
Lieutenant Governor
State of Alaska
Pouch A, State Capitol
Juneau, Alaska 99811

Re: Legality of legislators running
for other house following increase
in legislative salary.

Dear Lieutenant Governor Thomas:

You have asked whether, under Warwick v. State, 548 P.2d 384 (Alaska 1976), a member of one house of the legislature may run for a seat in the other house, when the pay for that seat in the other house has been increased by the legislature in which the candidate served. While the Alaska courts have not ruled on the issue, it is our view that the answer is yes.

The question arises from Article II, section 5 of the Alaska Constitution which provides in part:

During the term for which elected
and for one year thereafter, no legis-
lator may be nominated, elected, or
appointed to any other office or position

The Honorable Lowell Thomas, Jr.
Lieutenant Governor

June 29, 1976
Page Two

of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

The purpose of the prohibition is to remove temptation and improper motives from considerations of legislators in voting for increased salaries or the creation of new offices. Warwick v. State, supra, at 388. Because prohibitions like this are contrary to general public policy which favors eligibility for office, they are usually given a literal construction and are rarely expanded beyond their literal terms. Id. at 389. Where there is doubt as to their coverage, courts have emphasized that when the office is elective, the preference for eligibility is stronger, since voters thereby exercise a direct control. Id.

In connection with legislative office,

The Honorable Lowell Thomas, Jr.
Lieutenant Governor

June 29, 1976
Page Three

the relevant terms of the prohibition are as follows:

During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office . . . the salary or emoluments of which have been increased, while he was a member. Alaska Constitution. art. II, §5 (emphasis added).

Reading the prohibition purely literally, it does not apply to a legislator's running for a seat in the other house of the legislature. His office, that of a "legislator," remains the same. While the term of office differs (four years for members of the senate, two years for members of the house) and the constituency may differ, the "office" of "legislator" is constant.

This literal interpretation gives full effect to the purpose of the prohibition (to prevent improper motives in voting on a salary increase). Indeed, expanding the coverage of the provision would not further the purpose of the section but would in fact be irrational. This is so because the members of both houses receive the same salary and emoluments. There is

The Honorable Lowell Thomas, Jr.
Lieutenant Governor

June 29, 1976
Page Four

no question that, following a salary increase, a legislator may run for re-election to his own seat. No possible purpose is served then by barring a legislator from running for a seat in the other house.

The question you have raised was touched on by Judge Carlson in his opinion in Warwick but not in any detailed fashion. In his Memorandum of Decision, Judge Carlson noted that originally, the proposed section 5 contained an express provision allowing election to the other house of the legislature and that it was stricken from the final document. This, in the Judge's passing view appeared to raise questions concerning eligibility in situations like this, though as he noted, "this does not appear to have been the framers' intent". In fact, however, the exception Judge Carlson made reference to had no relation to the prohibition in issue here. It was, rather, an exception to an altogether different prohibition, and both that prohibition and that exception were deleted by the framers.

As originally proposed, section 5 provided:

No legislator or other elective or
appointive officer of this state shall

The Honorable Lowell Thomas, Jr.
Lieutenant Governor

June 29, 1976
Page Five

file or run for election to any other state office until his services have been terminated, but a member of one house of the legislature may be nominated or elected to the other house. 6 Proceedings Alaska Constitutional Convention, App. V, at 30 (emphasis added).

This is the prohibition and exception which were deleted by the framers. The purpose of that provision was not to eliminate temptation and improper motivation in voting on salary increases or creating offices but rather to "prevent any state official from using his office or expense account as a vehicle for campaigning for another office." Committee on Legislative Branch, Commentary, on file with Legislative Affairs Agency; quoted by the lower court in its Memorandum Decision, supra, at 10 and in Begich v. Jefferson, 441 P.2d 27, 30, text and n. 7 (Alaska 1968). The framers decided that this prohibition went too far in that it would, with but the single exception expressed in the provision, require any public official who sought higher office to resign. Accordingly, they deleted the prohibition, including the exception, which-- without the prohibition--was meaningless. 3 Proceedings Alaska

The Honorable Lowell Thomas, Jr.
Lietenant Governor

June 29, 1976
Page Six

Constitutional Convention 1801-1816. The distinction between the two prohibitions and their respective exceptions was noticed and described in the course of the debate. Id. at 1803 (dialogue of Taylor and Sundborg).

Accordingly, while the Supreme Court has limited the exceptions to the operation of section 5 to those expressly made by the Alaska Constitution, Warwick v. State, supra; Beigh v. Jefferson, supra, no exception is required here, because the prohibition has no application to a legislator's running for legislative office and it should not be expanded to apply to one's doing so. Cf. Warwick v. State, supra, at 389.

Sincerely yours,

Avrum M. Gross
Attorney General

AMG:db:RWP

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

FOUCH. X - STATE CAPITOL
JUNEAU 99511

December 27, 1976

The Honorable Christopher R. Cooke
Judge of the Superior Court
P. O. Box 555
Bethel, Alaska 99559

Re: Prohibition against
dual office holding.

Dear Judge Cooke:

You have asked whether as a judge you may also continue to be a regent of the University of Alaska. Your situation is that you are a member of the Board of Regents and have recently been appointed to the Superior Court. Judges of the Superior Court are prohibited from holding "any other office or position of profit under the United States, the State, or its political subdivisions." Art. IV, §14 (emphasis added).

Introduction

While the answer to your question should be plain on its face, there exist in Alaska a number of commissions in the executive branch whose membership includes legislators and one commission whose membership includes two legislators and the Chief Justice of the State Supreme Court. The question is whether these memberships offend the prohibition against dual office holding, and if not, whether membership on the Board of Regents by a governor, legislator or judge

is also valid. It is our opinion that neither the prohibition against dual office holding nor the separation of powers doctrine absolutely forbids the formation of inter-branch commissions but that the Board of Regents is not an inter-branch commission, and a judge may not, therefore, sit as a regent while holding office. */

Discussion

At the outset it should be noted that the prohibition against dual office holding is literally enforced in Alaska. State v. Jefferson, 441 P.2d 7 (Alaska 1968). The purpose of the prohibition is ". . . to guard against conflicts of interest, self-aggrandizement, concentration of power, and dilution of separation of powers in regard to the exercise. . . of the executive, judicial, and legislative functions of our state government." Id., at 35. The Alaska Supreme Court has concluded that the very limited exceptions to the prohibition necessarily result in its very broad application. Id., at 30-33. In essence, because only service in the armed forces and election to or employment by a constitutional convention are excluded, the prohibition must include all other offices and positions of profit. Id.

Judges and justices are not only prohibited from holding any other office under the United States and the State (as are legislators) but also from holding any office

*/ By the same token, neither a legislator, art. II, §5, nor the Governor, art. III, §6, may sit as a regent.

of a political subdivision (as is the governor). Plainly, the framers of our constitution imposed a broad bar against conflicts of interest on the judiciary and the chief executive. Alaska Constitution, Art. II, §5; art. III, §6; art. IV, §14. In essence, that is the legal context in which your question arises. We turn next to the existing situation with respect to the inter-branch commissions and the board of regents.

The Alaska Commission on Postsecondary Education consists of persons who represent the University of Alaska, the SJC, the Department of Education, the general public, vocational education groups, local college advisory councils, and the legislature. AS 14.40.903(a). The commission is "advisory," on the one hand, AS 14.40.909(a), and something of a clearinghouse, on the other. AS 14.40.909(b)(2)(4). However, it does appear to exercise some sovereign, executive powers. AS 14.40.909(b)(1), (4), (5), and (6), and AS 14.40.909(c) (in part). To the extent that it does so, the presence of members of the legislature on the commission appears to violate the prohibition against dual office holding, Alaska Constitution, art. II, §5, and the separation of powers doctrine. Hampton, Jr. & Co. v. United States, 276 U.S. 394, 405-406 (1928); Book v. State Office Bldg. Comm., 149 N.E. 2d 273, 296 (Ind. 1958); Saxby v. Sonnemann, 149 N.E. 526, 528 (Ill. 1925). */

*/ Because it is not germane to your question, we do not discuss the highly questionable method employed for appointing the members of this commission under AS 14.40.903(a). Suffice to say that they are of dubious validity. Buckley v. Valeo, 424 U.S. 1 (1976). Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

The Governor's Commission on the Administration of Justice, AS 44.19.746--758, is essentially an intra-governmental, inter-branch clearinghouse. It is a means for providing advice and exchanges of information and recommendations between the branches on matters of criminal justice. While this commission may incidentally exercise some administrative power, AS 44.19.756, there is nothing to indicate that this exercise is not in furtherance of each branch's separate powers or that any branch encroaches upon or tries to exercise the powers of another. The executive functions of the commission's staff are expressly under the executive branch. AS 44.19.758. Were the legislative or judicial members of this commission to exercise powers of the executive branch, the validity of their membership would be much in doubt. Since all laws are presumed to be constitutional, and there is nothing to show that the law establishing the governor's Commission on the Administration of Justice is being applied in an unconstitutional manner, it is proper to view the membership of the legislators and the Chief Justice as additional to their other duties, i.e., as legislative and judicial functions, representing their respective branches of the government. */

*/ We do not comment on the apparent disparity between the state and federal laws on how this representation should be achieved. Compare AS 44.19.748 and 754 with 42 U.S.C.A. §3723. Suffice to say that there is nothing wrong per se with such representation qua representation.

Again, we emphasize that, were the legislators or the chief justice to exercise the administrative or law enforcement powers of the executive branch through their membership on this commission, then the prohibition against dual office holding, Alaska Constitution, art. II, §5, and art. IV, §14, and the separation of powers doctrine would be violated.

The Commission on the Conference of the Law of the Sea, AS 44.19.789, also in the office of the governor and also with members from the legislature, is essentially an advisory group. It gathers and disseminates information. Since both the executive and legislative branches may perform such functions, no reason appears why they may not do them together. Cf., Buckley v. Valeo, 424 U.S. 1 (1976). The legislators appointed to this commission may in no way exercise or encroach on the powers of the executive branch. They serve on it merely as representatives of the legislative branch in furtherance of its law making functions.

The Alaska International Development Commission, AS 44.19.400, is also in the office of the governor. Its members include, inter alia, the State's congressional delegation and a state senator and representative. AS 44.19.410. The Governor is chairman. AS 44.19.430. Its functions are almost purely advisory and informational, i.e., it has no power to execute. AS 44.19.440. The presence of legislators on this commission is plainly in a representative capacity and violates neither the prohibition against dual office holding nor the separation of powers doctrine.

The Rural Affairs Commission is also in the office of the governor, AS 44.19.720, and legislators may be appointed to it. AS 44.19.722(b). This commission's sole functions are to gather and to disseminate information and make recommendations. As with similar bodies discussed above, no reason occurs why legislators may not serve on such a body in a representative capacity.

Again, we emphasize that we are observing--as we must--the presumption that a statute is constitutional. Nothing on the face of the several statutes examined here--with the exception of AS 14.40.909(b)(1), (4)--(6) and AS 14.40.909(c) (in part)--requires the members of one branch to exercise the powers of another branch or to exercise the powers of another office, i.e., each merely performs additional duties in his capacity as legislator, governor, administrator, and, in one instance, as chief justice. Accordingly, absent a factual showing of encroachment--or of acting in another capacity--we find no other constitutional offense. See, e.g., State v. Powell, 142 N.E. 401, 403 (Ohio 1924). If--in fact--an encroachment or dual office holding were to exist, then the presumption of constitutionality would be rebutted, and our opinion would be different.

The Board of Regents of the University of Alaska is altogether different from these advisory and clearinghouse commissions. "The University of Alaska shall be governed by a board of regents." Alaska Constitution, Art. VII, §3. Its function is to ". . . formulate policy and appoint the president of the university." Id. The latter is ". . . the

executive officer of the board." Id. Governing, formulating university policies, and appointing university presidents are executive functions. Compare, Bradner v. Hammond, 53 P.2d 1 (Alaska 1976). At any event, it seems rather obvious that they are not functions of the judicial branch. Compare, Alaska State-Operated School System v. Mueller, 536 P.2d 99, 103 (Alaska 1975).

In establishing the Alaska Commission on Post-secondary Education, the Alaska Legislature expressly affirmed . . . the legal authority for the operation and management of the statewide university system remains with the Board of Regents of the University of Alaska" AS 14.40.901(b). This authority over the "operation and management" of the university arises from the Alaska Constitution, Art. VII, §3, and is more particularly provided for by statute. AS 14.40.170, 250, 280, 350, and 360. 'All the powers devolved upon the board are essentially administrative, i.e., to execute in accordance with law.

It simply is not within the province of the office of a judge of the Superior Court to manage and control the university's property and invest its money, execute its leases, select its lands, hire and fire its presidents, set salaries, and otherwise manage the university. These are not judicial functions.

You suggest that the position of regent is neither an office nor a position of profit as those terms are used in the constitution. The very limited exceptions from the application of those terms expressly made in the constitution,

Art. II, §5 (legislators), Art. XII, §3 (general exemption), precludes our arriving at that conclusion. While not a position of profit, i.e., non-salaried employment, the position of regent of the University of Alaska is--by definition--an office of the State. First, it is one of the few offices provided for by the constitution, Art. IV, §13. Second, regents are appointed to their positions by the Governor, subject to confirmation by the legislature, *Id.* They have fixed terms of office. AS 14.40.140. They exercise a specific and significant share of the sovereign power of the State which is expressly provided for by constitution and statute. These factors are those which characterize an office of government. See, Beigich v. Jefferson, 441 P.2d 27, 31 n. 10 (Alaska 1968). Both Black's and Words and Phrases so thoroughly confirm this view that further citation would be wastefully redundant.

A judge does not sit on the Board of Regents in a representative capacity of the judicial branch. When he sits as a regent he is not exercising judicial power but rather certain executive powers of control vested in the regents over the State's sole institution of higher learning. This he may not do. Alaska Constitution, Art. IV, §14. The University of Alaska is an instrumentality of the State, and membership on its Board of Regents is necessarily an office under the State. Compare, University of Alaska v. National Aircraft Leasing, Ltd., 536 P.2d 121 (Alaska 1975) with, Beigich v. Jefferson, 441 P.2d 27 (Alaska 1968).

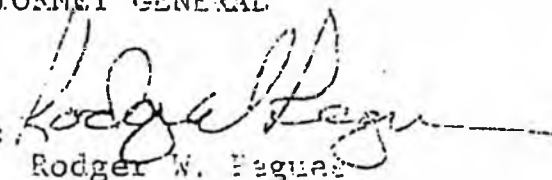
The Honorable Christopher R. Cooke

December 27, 1976
Page Nine

Accordingly, it is our view that it would be improper for you to continue to serve as a regent of the University of Alaska. We would appreciate your resignation from that office at your earliest convenience.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Rodger W. Fegues
Assistant Attorney General

cc: Hon. Jay Hammond, Governor
Hon. Robert Boochever, Chief Justice
Mr. Robert Hiatt, President, University of Alaska
Mr. Arthur H. Snowden, Administrative Director,
Alaska Court System

November 16, 1977

The Honorable George Holman
Senator
Pouch V
Juneau, Alaska 99811

Re: constitutionality of
legislators serving on
state bond committee -
Our file J-66-265-78

Dear Senator Holman:

You have asked whether it would be constitutional for the chairman of the House and Senate Finance committees to be members of the State Bond Committee.

The short answer is no.

The Alaska Constitution provides for the separation of powers between the legislative, judicial, and executive branches of the government. Walker v. Hammond, 553 P.2d 1 (Alaska 1976); Laege v. Martin, 372 P.2d 447 (Alaska 1963). The doctrine of the separation of powers precludes one branch from exercising the power of another. Hampton Jr. & Co v. United States, 276 U.S. 394 (1928). Nor may one branch intrude into the functions of another. Mahury v.

Senator Hohman
November 16, 1977
Page 12

Madison 5 U.S. (1 Cranch) 137, 170-171 (1803); Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). The State Bond Committee is within the executive branch and performs executive functions. AS 37.15.101 - 160; cf., Walker v. Alaska State Mtg. Ass'n., 416 P.2d 245 (Alaska 1966). Accordingly, membership on the committee by members of the legislature would violate the separation of powers doctrine.

Additionally, the Alaska Constitution prohibits members of the legislature from holding any other office. Alaska Const., art. II, §5; Begich v. Jefferson, 441 P.2d 27 (Alaska 1968). While some jurisdictions allow inter-branch committees for financial matters, e.g., Woodward v. Riley, 152 So 2d 41 (La. 1963), the prohibitions contained in art. II, §5 are literally and strictly enforced in Alaska. Warwick v. State ex rel. Chance, 540 P.2d 384 (Alaska 1976); Begich v. Jefferson, 441 P.2d 27 (Alaska 1968). Membership on the state bond committee would constitute dual-office holding for legislators and violate the prohibition. Cf., Book v. State Office Bldg. Comm., 149 N.E. 2d 273 (Ind. 1958); Cainion of the Justices, 1 N.E. 2d 307, 310-317 (Mass. 1939).

Finally, the appointing authority for offices in the executive branch is the governor. Bradner v. Hammond,

Senator Rohman
November 16, 1977
Page #3

513 P.2d 1 (Alaska 1976); Alaska Const., art. III, §§25, 26. He appoints the heads of the principal departments, and therefore, no problem arises from a statute which provides for several of them to serve, *ex officio*, as members of the bond committee, *i.e.*, they are, in fact, appointed by the governor. But if the law were to designate legislative committee chairmen, *i.e.*, persons appointed by the legislature or its officers, to hold an office in the executive branch, then there would be a serious constitutional problem. Buckley v. Valeo, 424 U.S. 1 (1976); *cf.*, Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

It is not our opinion that either the separation of powers doctrine or the prohibition against dual-office holding absolutely forbids the formation of inter-branch committees. Those inter-branch committees which are established as clearinghouses for an exchange of ideas and advice on a given subject and which do not exercise sovereign power, *i.e.*, which do not make, execute, or declare the law, do not offend either prohibition. (*cf.*, Buckley v. Valeo, 424 U.S. 1 (1976); State v. Powell, 142 N.E. 401 (Ohio 1924). But acting for the State to carry out the laws which authorize the issuance of bonds is, by definition, executing law, and that function does fall within the terms of the

Senator Mohman
November 13, 1977
Page 24

prohibition. Put another way, discussing and advising on the matter may be done by an inter-branch committee; deciding upon and acting on the matter may not.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Rodger W. Pagues
Assistant Attorney General

RWP:jeh



ALASKA STATE LEGISLATURE
SENATOR RANDY PHILLIPS
Senate District L

Session (Jan-May)
State Capitol, Rm 103
Juneau, AK 99801
(907) 465-4949
(907) 465-4979 Fax
Toll Free Anchorage Area
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Interim
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April 24, 2001

Representatives Carl Morgan and
Kevin Meyer
House C&RA Committee
State Capitol
Juneau, AK 99801

Re: SB 88 Metropolitan Planning Organization
Request for Hearing

Dear Representatives Morgan and Meyer,

As sponsor of SB88, "An Act relating to metropolitan planning organizations and to establishment of a metropolitan planning organization for the Anchorage metropolitan area," I respectfully request a hearing in the House Transportation Committee as soon as possible.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Phillips".

Senator Randy Phillips



ALASKA STATE LEGISLATURE
SENATOR RANDY PHILLIPS
Senate District L

Session (Jan-May)
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SB 88 METROPOLITAN PLANNING ORGANIZATION
Sponsor Statement

SB88, "An Act relating to metropolitan planning organizations and to establishment of a metropolitan planning organization for the Anchorage metropolitan area," would add two legislators on certain metropolitan planning organizations.

The purpose of SB88 is to assist in making the Anchorage Metropolitan Area Transportation Study, (AMATS), more responsive to the needs of communities. Many legislators feel that they are asked to approve state funding for the development of a multi-modal transportation system--including those projects that have not been established as local community priorities. Legislators have a direct link to constituents and community councils where many of the needs are initiated, and therefore, should have more input into the AMATS Policy Committee.

SB88 adds two legislators from the Anchorage Caucus to the AMATS Committee, increasing the voting Policy Committee from five to seven representatives, and will provide a more adequate level of citizen representation.



ALASKA STATE LEGISLATURE
SENATOR RANDY PHILLIPS
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M E M O R A N D U M

TO: Members of the House C&RA Committee
FROM: Senator Randy Phillips *RP*
SUBJECT: SB88 Metropolitan Planning Organizations (AMATS)
DATE: April 24, 2001

I realize some members of the committee may not be familiar with AMATS so I am providing the following basic information.

What is AMATS?

AMATS is the acronym for the Anchorage Metropolitan Area Transportation Study. The AMATS mission is "To develop and implement a multi-modal transportation system." It was created in 1976 so that our local area could receive federal highway funds, in compliance with the Federal Highway Act of 1962. Transportation planning in the Municipality of Anchorage is conducted under the auspices of AMATS. AMATS is a cooperative, comprehensive, and continuing process in which the State of Alaska and the Municipality of Anchorage jointly plan improvement of local roadway, transit, and trail systems.

Where is the AMATS area?

The AMATS Study Area encompasses a major portion of the political boundaries of the Municipality of Anchorage, the urbanized areas of Eagle River, Chugiak, Birchwood, Eklutna and the Anchorage Bowl, plus Girdwood, Bird Creek, and Indian.

What are the duties of the AMATS Policy Committee?

The AMATS Policy Committee consists of five equal voting members: the Regional Director of DOT&PF, the Commissioner of DEC, the Mayor of Anchorage, and two Municipal Assembly members. The Policy Committee has the authority to act on all matters relating to the continuing, comprehensive and cooperative transportation and air quality planning process for the area. Their duties are to:

- ◆ Establish the needs and priorities of transportation,
- ◆ Direct the preparation and implementation of transportation plans, programs and studies,
- ◆ Manage and secure funding to implement the Transportation Program,
- ◆ Provide overall direction to the AMATS Technical Advisory Committee and staff
- ◆ Ensure public involvement throughout the AMATS process.

Municipality of Anchorage



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4431
Fax: (907) 343-4499
<http://www.ci.anchorage.ak.us>

George P. Wuerch, Mayor

OFFICE OF THE MAYOR

April 27, 2001

The Honorable Randy Phillips
Alaska State Senate
State Capitol
Juneau, AK 99801

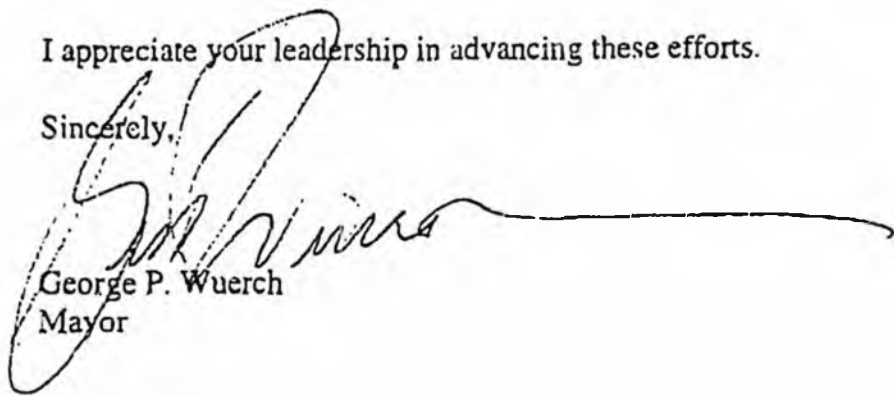
Dear Senator Phillips:

I write in support of Senate Bill 88, which proposes changes to the membership on the Anchorage metropolitan planning organization (AMATS).

As both a member of the Anchorage Assembly and now as Mayor, I greatly appreciate the interest you and many of your colleagues have in how we can improve the process that governs major transportation improvements in the Municipality. While improvement suggestions vary widely, I believe the change in membership proposed by SB 88 to include two legislators on the AMATS Policy Committee can only help reinforce the team approach that is necessary to achieve the transportation goals we all share.

I appreciate your leadership in advancing these efforts.

Sincerely,



George P. Wuerch
Mayor



U.S. Department
of Transportation
**Federal Highway
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

April 5, 2001

Refer to: HEPM

Mr. Tom Brigham
Director, Division of Statewide Planning
Transportation and Public Facilities
3132 Channel Drive Room 200
Juneau, AK 9801

Dear Mr. Brigham:

You have solicited our review of SB 88 in terms of its consistency with current Federal statute and regulations regarding the metropolitan transportation planning process.

We have reviewed the draft you provided and offer the following: Redesignation as defined by 23 USC 134 is based on a process of agreement between the Governor and local officials. This legislation would substantially restructure the governing board of the existing MPO. It has been the position of this agency that changes to MPO governing boards made consistent with existing by-laws would not be construed as a redesignation. This change, however, would be made under newly adopted state legislation without the direct input of the MPO or local officials and not based on the existing by-laws of the MPO. In our view, this would be an imposition of structure on the MPO and would constitute a restructuring of the Board and redesignation of the MPO as a result.

In our view, it is clearly congressional intent to give local officials a role in redesignating MPOs. The apparent rationale is simply that if the MPO is to serve as an effective forum for making local decisions that it would be wise to give local governments ownership in the entity. The action contemplated by this legislation would seemingly substitute State legislative judgments for local actions.

We have been asked to comment on similar legislative proposals in other States. In each case we have made the same general observation. An action by the legislature without the consent and support of local officials and the Governor would appear to be inconsistent with the intent of 23 USC 134.

If you have any further questions, please contact Sheldon Edner of my staff at (202) 366-4066.

Sincerely,

George Schoener, Director
Office of Metropolitan Planning and Programs

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 88
(S) Publish Date: 2/21/01

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
Title: An act relating to metropolitan planning BRU: Central Region Planning
organizations and to establishment... Component: Central Region Planning
Sponsor: Senator Phillips
Requester: Senate Transportation Component Number: 557

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 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)

Prepared by: Dennis R. Poshard Phone 465-3904
Division: Commissioner's Office Date/Time 2/20/01 11:11 AM
Approved by: Joseph L. Perkins, P.E. Date 2/20/01
Agency: Commissioner

For distribution information, call the Governor's Legislative Office

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

3132 CHANNEL DRIVE
JUNEAU, ALASKA 99801-7898

TEXT: (907) 465-3652
FAX: (907) 586-8365
PHONE: (907) 465-3900

December 6, 2000

The Honorable Dave Donley
Alaska State Senate
716 West 4th Street, Suite 430
Anchorage, AK 99501

Dear Senator Donley: *Dave*

Thank you for your letter of November 7 concerning the relative amount of transportation funding Anchorage has received over the past few years. There is no question that Anchorage has significant, pressing transportation needs. We are and will continue to address those needs as this response will describe. But we will also stand by the STIP process we have used; it is the fairest and most equitable statewide system yet devised.

Work in Anchorage is moving ahead on several fronts. As you know, we are writing the environmental document for the Glenn Highway widening by Merrill Field. This part of the Glenn Highway is responsible for more total delay than is any other problem spot in Anchorage. This summer we will see construction on Arctic Blvd, the Old Seward Highway, portions of C Street and Boniface Parkway. The improvement of Dowling Road will be ready for bid soon. We are also increasing the funding for pavement replacement to deal with the problem of rutting. With a number of large projects in development, the total dollars spent in Anchorage *will* be increasing. But the basic issue is striking a fair balance.

Apart from the significant investment in the Anchorage International Airport, I believe your analysis loses sight of the many projects lumped into other areas of the state that are of direct benefit to Anchorage residents. Improvements to the Seward, Glenn and Parks Highways make it easier for residents of other communities to travel to Anchorage for shopping, work or entertainment, or for Anchorage residents to drive out of town for business or recreation. As an example, we will within two years have under construction an interchange at the Parks and Glenn Highway junction that will cost more than \$40 million and will benefit commuters from the Mat-Su Borough traveling predominantly to Anchorage. Other projects, such as the improvements on the Seward Highway between Bird Point and Girdwood, the major widening of the Parks Highway or the Whittier Project, serve predominantly Anchorage residents, commuters and visitors. These projects and others, which should have been included in your Anchorage numbers, increase both the Anchorage totals and percentages. We will also propose a significant amount of GARVEE bond-funded projects during the next legislative session to specifically accelerate the volume of roadwork done in Anchorage over the next few years.

Senator Donley

Page 2

December 6, 2000

Again, Alaska is a rural, mostly unpopulated state. Transportation investments in our state must be spent in many areas with low traffic volumes and few inhabitants. When our delegation and we press for federal highway and aviation funding with each program reauthorization, we stress the need to link far-flung residents of our state. This inherently costs more per capita than in urban states. This point has been a hallmark of Alaska's transportation policy for more than four decades. To then reverse ourselves and allocate such hard won federal funds within Alaska purely on the basis of population would undermine the state's argument calling for disproportionate funding to flow to Alaska because of our unique geographic setting.

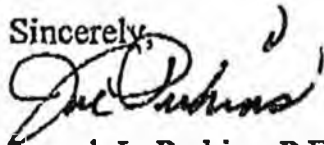
Over the past 45 years, if the US gas tax receipts were apportioned on a strict ratio based on taxes collected, we would have received only 15% of the funds actually used in Alaska. Even today we receive a return of approximately five dollars to every one dollar generated in federal gas and related taxes. Our current \$400 million allocation of federal funds would shrink to about \$80 million if your logic were used against us in Congress. Both our urban and rural highways would be in disarray under such a limited capital budget.

In addition, some of the rural project needs are very, very basic. These projects typically support and make functional and maintainable first-level water, sewer and solid waste facilities, or connect the community to its airport or dock. Comparable roads were built in urban Alaska during the first quarter of the last century.

Finally, Legislative Finance must have misunderstood FHWA's response to their question of what would happen to funding if Alaska had no exemption to the requirement to include at least 25 percent of surface transportation (STP) funds to urbanized areas under 23 USC 133. Alaska's STP allocation for FFY2001 will be about \$67.7 million. This is only a portion of the Federal Highway funds that Alaska receives. The FHWA estimates that the portion of the STP allocation that would be distributed to Anchorage would equal about \$13.4 million, significantly less than provided in the current AMATS allocation which averages approximately \$40 million annually in the AMATS FY 01-03 TIP for non-NHS projects alone.

Again, thank you for your letter. I look forward to discussing these important concerns with you in the near future.

Sincerely,



Joseph L. Perkins, P.E.
Commissioner

cc: Mayor George Wuerch, Municipality of Anchorage
Assemblymember Anna Fairclough, Anchorage Assembly Legislative Chair
Anchorage Legislative Caucus
Frank Dillon, Anchorage Chamber of Commerce Transportation Committee Co-Chair
Bob Bailey, Anchorage Chamber of Commerce Transportation Committee Co-Chair
Ray Smith, President Anchorage Building Trades