

ALABAMA LEGISLATURE COMMITTEE FILES, 2005-2006 8672

11642 HOUSE STATE AFFAIRS

Annotations

Revisor's notes. Formerly AS 15.13.120. Renumbered in 2000, at which time, "AS 15.13.390" was substituted for "AS 15.13.125" in subsection (d) in order to reflect the 2000 renumbering of AS 15.13.125.

Effect of amendments. The 1996 amendment, effective January 1, 1997, repealed subsection (a), and rewrote subsections (d) and (e).

The 2002 amendment, effective June 26, 2002, deleted ", including contributors who failed to file a statement in accordance with AS 15.13.040," following "delinquent in filing them" in the first sentence in subsection (c).

The 2003 amendment, effective September 14, 2003, rewrote this section.

NOTES TO DECISIONS

ANALYSIS

- I. General Consideration
- II. Forfeiture Sanction

I. GENERAL CONSIDERATION.

This section contains no scienter requirement and the court would not impose one. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

Quoted in *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

II. FORFEITURE SANCTION.

Annotator's notes. - Subsection (b), which contained a forfeiture sanction for violation of AS 15.13, was repealed in 1982.

Constitutionality of forfeiture sanction. - The forfeiture sanction of subsection (b) (now repealed) does not conflict with any constitutional provision delimiting the qualifications of assembly or council members or with any provision reserving exclusive authority to determine a member's election to those local entities. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

Even if the forfeiture sanction of subsection (b) (now repealed) may conflict with Alaska Const., art. II, § 12, insofar as state legislative elections are concerned, it can nonetheless constitutionally apply to local elections. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

The forfeiture sanction is valid. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

The deadlines for filing are mandatory, and the plain meaning of this section makes the forfeiture sanction applicable. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

The statutory forfeiture of office provision applied to the election of a city councilman and borough assemblyman whose 1980 seven-day pre-election report was not filed until well after the election. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

The absence of regulations is not fatal to enforcement of the forfeiture sanction because they are not necessary to implement the sanction or to protect a constitutional right. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

Sec. 15.13.385. Legal counsel.

Statute text

(a) The attorney general is legal counsel for the commission. The attorney general shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in actions to which it is a party. If, in the opinion of the commission, the public interest warrants, the commission may request the chief justice of the supreme court to appoint a special prosecutor to represent the commission in a proceeding involving an alleged violation of this chapter and to prosecute that violation.

(b) When the public interest warrants, the commission may employ temporary legal counsel from time to time in matters in which the commission is involved.

History

(§ 26 ch 189 SLA 1975)

Annotations

Revisor's notes. Formerly AS 15.13.122. Renumbered in 2000.

FTC POLICY STATEMENT ON DECEPTION

FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

October 14, 1983

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter responds to the Committee's inquiry regarding the Commission's enforcement policy against deceptive acts or practices.¹ We also hope this letter will provide guidance to the public.

Section 5 of the FTC Act declares unfair or deceptive acts or practices unlawful. Section 12 specifically prohibits false ads likely to induce the purchase of food, drugs, devices or cosmetics. Section 15 defines a false ad for purposes of Section 12 as one which is "misleading in a material respect."² Numerous Commission and judicial decisions have defined and elaborated on the phrase "deceptive acts or practices" under both Sections 5 and 12. Nowhere, however, is there a single definitive statement of the Commission's view of its authority. The Commission believes that such a statement would be useful to the public, as well as the Committee in its continuing review of our jurisdiction.

We have therefore reviewed the decided cases to synthesize the most important principles of general applicability. We have attempted to provide a concrete indication of the manner in which the Commission will enforce its deception mandate. In so doing, we intend to address the concerns that have been raised about the meaning of deception, and thereby attempt to provide a greater sense of certainty as to how the concept will be applied.³

I. SUMMARY

Certain elements undergird all deception cases. First, there must be a representation, omission or practice that is likely to mislead the consumer.⁴ Practices that have been found misleading or deceptive in specific cases include false oral or written representations, misleading price claims, sales of hazardous or systematically defective products or services without adequate disclosures, failure to disclose information regarding pyramid sales, use of bait and switch techniques, failure to perform promised services, and failure to meet warranty obligations.⁵

Second, we examine the practice from the perspective of a consumer acting reasonably in the circumstances. If the representation or practice affects or is directed primarily to a particular group, the Commission examines reasonableness from the perspective of that group.

Third, the representation, omission, or practice must be a "material" one. The basic question is whether the act or practice is likely to affect the consumer's conduct or decision with regard to a product or service. If so, the practice is material, and consumer injury is likely, because consumers are likely to have chosen differently but for the deception. In many instances, materiality, and hence injury, can be presumed from the nature of the practice. In other instances, evidence of materiality may be necessary.

Thus, the Commission will find deception if there is a representation, omission or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment. We discuss each of these elements below.

II. THERE MUST BE A REPRESENTATION, OMISSION, OR PRACTICE THAT IS LIKELY TO MISLEAD THE CONSUMER.

Most deception involves written or oral misrepresentations, or omissions of material information. Deception may also occur in other forms of conduct associated with a sales transaction. The entire advertisement, transaction or course of dealing will be considered. The issue is whether the act or practice is likely to mislead, rather than whether it causes actual deceptions.

Of course, the Commission must find that a representation, omission, or practice occurred in cases of express claims, the representation itself establishes the meaning. In cases of implied claims, the Commission will often be able to determine meaning through an examination of the representation itself, including an evaluation of such factors as the entire document, the juxtaposition of various phrases in the document, the nature of the claim, and the nature of the transactions.⁷ In other situations, the Commission will require extrinsic evidence that reasonable consumers reach the implied claims.⁸ In all instances, the Commission will carefully consider any extrinsic evidence that is introduced.

Some cases involve omission of material information, the disclosure of which is necessary to prevent the claim, practice, or sale from being misleading.⁹ Information may be omitted from written¹⁰ or oral¹¹ representations or from the commercial transaction.¹²

In some circumstances, the Commission can presume that consumers are likely to reach false beliefs about the product or service because of an omission. At other times, however, the Commission may require evidence on consumers' expectations.¹³

Marketing and point-of-sales practices that are likely to mislead consumers are also deceptive. For instance, in bait and switch cases, a violation occurs when the offer to sell the product is not a bona fide offer.¹⁴ The Commission has also found deception where a sales representative misrepresented the purpose of the initial contact with customers.¹⁵ When a product is sold, there is an implied representation that the product is fit for the purposes for which it is sold. When it is not, deception occurs.¹⁶ There may be a concern about the way a product or service is marketed, such as where inaccurate or incomplete information is provided.¹⁷ A failure to perform services promised under a warranty or by contract can also be deceptive.¹⁸

III. THE ACT OR PRACTICE MUST BE CONSIDERED FROM THE PERSPECTIVE OF THE REASONABLE CONSUMER

The Commission believes that to be deceptive the representation, omission or practice must be likely to mislead reasonable consumers under the circumstances.¹⁹ The test is whether the consumer's interpretation or reaction is reasonable.²⁰ When representations or sales practices are targeted to a specific audience, the Commission determines the effect of the practice on a reasonable member of that group. In evaluating a particular practice, the Commission considers the totality of the practice in determining how reasonable consumers are likely to respond.

A company is not liable for every interpretation or action by a consumer. In an advertising context, this principle has been well-stated:

An advertiser cannot be charged with liability with respect to every conceivable misconception, however outlandish, to which his representations might be subject among the foolish or feeble-minded. Some people, because of ignorance or incomprehension, may be misled by even a scrupulously honest claim. Perhaps a few misguided souls believe, for example, that all "Danish pastry" is made in Denmark. Is it therefore an actionable deception to advertise "Danish pastry" when it is made in this country? Of course not. A representation does not become "false and deceptive" merely because it will be unreasonably misunderstood by an insignificant and unrepresentative segment of the class of persons to whom the representation is addressed. Heinz W. Kirchner, 63 F.T.C. 1282, 1290 (1963).

To be considered reasonable, the interpretation or reaction does not have to be the only one.²¹ When a seller's representation conveys more than one meaning to reasonable consumers, one of which is false, the seller is liable for the misleading interpretation.²² An interpretation will be presumed reasonable if it is the one the respondent intended to convey.

The Commission has used this standard in its past decisions. The test applied by the Commission is whether the interpretation is reasonable in light of the claim.²³ In the Listerine case, the Commission evaluated the claim from the perspective of the "average listener."²⁴ In a case involving the sale of encyclopedias, the Commission observed "[i]n determining the meaning of an advertisement, a piece of promotional material or a sales presentation, the important criterion is the net impression that it is likely to make on the general populace."²⁵ The decisions in American Home Products, Bristol Myers, and Sterling Drug are replete with references to reasonable consumer interpretations.²⁶ In a land sales case, the Commission evaluated the oral statements and written representations "in light of the sophistication and understanding of the persons to whom they were directed."²⁷ Omission cases are no different: the Commission examines the failure to disclose in light of expectations and understandings of the typical buyer²⁸ regarding the claims made.

When representations or sales practices are targeted to a specific audience, such as

children, the elderly, or the terminally ill, the Commission determines the effect of the practice on a reasonable member of that group.²⁹ For instance, if a company markets a cure to the terminally ill, the practice will be evaluated from the perspective of how it affects the ordinary member of that group. Thus, terminally ill consumers might be particularly susceptible to exaggerated cure claims. By the same token, a practice or representation directed to a well-educated group, such as a prescription drug advertisement to doctors, would be judged in light of the knowledge and sophistication of that group.³⁰

As it has in the past, the Commission will evaluate the entire advertisement, transaction, or course of dealing in determining how reasonable consumers are likely to respond. Thus, in advertising the Commission will examine "the entire mosaic, rather than each tile separately."³¹ As explained by a court of appeals in a recent case:

The Commission's right to scrutinize the visual and aural imagery of advertisements follows from the principle that the Commission looks to the impression made by the advertisements as a whole. Without this mode of examination, the Commission would have limited recourse against crafty advertisers whose deceptive messages were conveyed by means other than, or in addition to, spoken words. *American Home Products*, 695 F.2d 681, 688 (3d Cir. Dec. 3, 1982).³²

In a case involving a weight loss product, the Commission observed:

It is obvious that dieting is the conventional method of losing weight. But it is equally obvious that many people who need or want to lose weight regard dieting as bitter medicine. To these corpulent consumers the promises of weight loss without dieting are the Siren's call, and advertising that heralds unrestrained consumption while muting the inevitable need for temperance, if not abstinence, simply does not pass muster. *Porter & Dietsch*, 90 F.T.C. 770, 864-865 (1977), 605 F.2d 294 (7th Cir. 1979), cert. denied, 445 U.S. 950 (1980).

Children have also been the specific target of ads or practices. In *Ideal Toy*, the Commission adopted the Hearing Examiner's conclusion that:

False, misleading and deceptive advertising claims beamed at children tend to exploit unfairly a consumer group unqualified by age or experience to anticipate or appreciate the possibility that representations may be exaggerated or untrue. *Ideal Toy*, 64 F.T.C. 297, 310 (1964).

See also, *Avalon Industries Inc.*, 83 F.T.C. 1728, 1750 (1974).

In a subsequent case, the Commission explained that "[i]n evaluating advertising representations, we are required to look at the complete advertisement and formulate our opinions on them on the basis of the net general impression conveyed by them and not on isolated excerpts." *Standard Oil of Calif*, 84 F.T.C. 1401, 1471 (1974), *aff'd as modified*, 577 F.2d 653 (9th Cir. 1978), *reissued*, 96 F.T.C. 380 (1980).

The Third Circuit stated succinctly the Commission's standard. "The tendency of the advertising to deceive must be judged by viewing it as a whole, without emphasizing isolated words or phrases apart from their context." *Beneficial Corp. v. FTC*, 542 F.2d 611, 617 (3d Cir. 1976), *cert. denied*, 430 U.S. 983 (1977).

Commission cases reveal specific guidelines. Depending on the circumstances, accurate information in the text may not remedy a false headline because reasonable consumers may glance only at the headline.³³ Written disclosures or fine print may be insufficient to correct a misleading representations.³⁴ Other practices of the company may direct consumers' attention away from the qualifying disclosures.³⁵ Oral statements, label disclosures or point-of-sale material will not necessarily correct a deceptive representation or omission.³⁶ Thus, when the first contact between a seller and a buyer occurs through a deceptive practice, the law may be violated even if the truth is subsequently made known to the purchaser.³⁷ Pro forma statements or disclaimers may not cure otherwise deceptive messages or practices.³⁸

Qualifying disclosures must be legible and understandable. In evaluating such disclosures, the Commission recognizes that in many circumstances, reasonable consumers do not read the entirety of an ad or are directed away from the importance of the qualifying phrase by the acts or statements of the seller. Disclosures that conform to the Commission's Statement of Enforcement Policy regarding clear and conspicuous disclosures, which applies to television advertising, are generally adequate, CCH Trade Regulation Reporter, ¶ 7569.09 (Oct. 21, 1970). Less elaborate disclosures may also suffice.³⁹

Certain practices, however, are unlikely to deceive consumers acting reasonably. Thus, the Commission generally will not bring advertising cases based on subjective claims (taste, feel, appearance, smell) or on correctly stated opinion claims if consumers understand the source and limitations of the opinion.⁴⁰ Claims phrased as opinions are actionable, however, if they are not honestly held, if they misrepresent the qualifications of the holder or the basis of his opinion or if the recipient reasonably interprets them as implied statements of fact.⁴¹

The Commission generally will not pursue cases involving obviously exaggerated or puffing representations, *i.e.*, those that the ordinary consumers do not take seriously.⁴² Some exaggerated claims, however, may be taken seriously by consumers and are actionable. For instance, in rejecting a respondent's argument that use of the words "electronic miracle" to describe a television antenna was puffery, the Commission stated:

Although not insensitive to respondent's concern that the term miracle is commonly used in situations short of changing water into wine, we must conclude that the use of "electronic miracle" in the context of respondent's grossly exaggerated claims would lead consumers to give added credence to the overall suggestion that this device is superior to other types of antennae. *Jay Norris*, 91 F.T.C. 751, 847 n.20 (1978), *aff'd*, 598 F.2d 1244 (2d Cir.), *cert. denied*, 444 U.S. 980 (1979).

Finally, as a matter of policy, when consumers can easily evaluate the product or service, it is inexpensive, and it is frequently purchased, the Commission will examine the

practice closely before issuing a complaint based on deception. There is little incentive for sellers to misrepresent (either by an explicit false statement or a deliberate false implied statement) in these circumstances since they normally would seek to encourage repeat purchases. Where, as here, market incentives place strong constraints on the likelihood of deception, the Commission will examine a practice closely before proceeding.

In sum, the Commission will consider many factors in determining the reaction of the ordinary consumer to a claim or practice. As would any trier of fact, the Commission will evaluate the totality of the ad or the practice and ask questions such as: how clear is the representation? how conspicuous is any qualifying information? how important is the omitted information? do other sources for the omitted information exist? how familiar is the public with the product or service?⁴³

IV. THE REPRESENTATION, OMISSION OR PRACTICE MUST BE MATERIAL.

The third element of deception is materiality. That is, a representation, omission or practice must be a material one for deception to occur.⁴⁴ A "material" misrepresentation or practice is one which is likely to affect a consumer's choice of or conduct regarding a product.⁴⁵ In other words, it is information that is important to consumers. If inaccurate or omitted information is material, injury is likely.⁴⁶

The Commission considers certain categories of information presumptively material.⁴⁷ First, the Commission presumes that express claims are material.⁴⁸ As the Supreme Court stated recently, "[i]n the absence of factors that would distort the decision to advertise, we may assume that the willingness of a business to promote its products reflects a belief that consumers are interested in the advertising."⁴⁹ Where the seller knew, or should have known, that an ordinary consumer would need omitted information to evaluate the product or service, or that the claim was false, materiality will be presumed because the manufacturer intended the information or omission to have an effect.⁵⁰ Similarly, when evidence exists that a seller intended to make an implied claim, the Commission will infer materiality.⁵¹

The Commission also considers claims or omissions material if they significantly involve health, safety, or other areas with which the reasonable consumer would be concerned. Depending on the facts, information pertaining to the central characteristics of the product or service will be presumed material. Information has been found material where it concerns the purpose,⁵² safety,⁵³ efficacy,⁵⁴ or cost,⁵⁵ of the product or service. Information is also likely to be material if it concerns durability, performance, warranties or quality. Information pertaining to a finding by another agency regarding the product may also be material.⁵⁶

Where the Commission cannot find materiality based on the above analysis, the Commission may require evidence that the claim or omission is likely to be considered important by consumers. This evidence can be the fact that the product or service with the feature represented costs more than an otherwise comparable product without the feature, a reliable survey of consumers, or credible testimony.⁵⁷

A finding of materiality is also a finding that injury is likely to exist because of the representation, omission, sales practice, or marketing technique. Injury to consumers can take many forms.⁵⁸ Injury exists if consumers would have chosen differently but for the deception. If different choices are likely, the claim is material, and injury is likely as well. Thus, injury and materiality are different names for the same concept.

V. CONCLUSION

The Commission will find an act or practice deceptive if there is a misrepresentation, omission, or other practice, that misleads the consumer acting reasonably in the circumstances, to the consumer's detriment. The Commission will not generally require extrinsic evidence concerning the representations understood by reasonable consumers or the materiality of a challenged claim, but in some instances extrinsic evidence will be necessary.

The Commission intends to enforce the FTC Act vigorously. We will investigate, and prosecute where appropriate, acts or practices that are deceptive. We hope this letter will help provide you and the public with a greater sense of certainty concerning how the Commission will exercise its jurisdiction over deception. Please do not hesitate to call if we can be of any further assistance.

By direction of the Commission, Commissioners Pertschuk and Bailey dissenting, with separate statements attached and with separate response to the Committee's request for a legal analysis to follow.

/s/James C. Miller III
Chairman

cc: Honorable James T. Broyhill
Honorable James J. Florio
Honorable Norman F. Lent

Endnotes:

¹S. Rep. No. 97-451, 97th Cong., 2d Sess. 16; H.R. Rep. No. 98-156, Part I, 98th Cong., 1st Sess. 6 (1983). The Commission's enforcement policy against unfair acts or practices is set forth in a letter to Senators Ford and Danforth, dated December 17, 1980.

²In determining whether an ad is misleading, Section 15 requires that the Commission take into account "representations made or suggested" as well as "the extent to which the advertisement fails to reveal facts material in light of such representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement, or under such conditions as are customary or usual." 15 U.S.C. 55. If an act or practice violates Section 12, it also violates Section 5. *Simeon Management Corp.*, 87 F.T.C. 1184, 1219 (1976), *aff'd*, 579 F.2d 1137 (9th Cir. 1978); *Porter & Dietsch*, 90 F.T.C. 770, 873-74 (1977), *aff'd*, 605 P.2d 294 (7th Cir. 1979), *cert. denied*, 445 U.S. 950 (1980).

³Chairman Miller has proposed that Section 5 be amended to define deceptive acts. Hearing Before the Subcommittee for Consumers of the Committee on Commerce, Science, and Transportation, United States Senate, 97th Cong., 2d Sess. *FTC's Authority Over Deceptive Advertising*, July 22, 1982, Serial No. 97-134, p. 9. Three Commissioners believe a legislative definition is unnecessary. *Id.* at 45 (Commissioner

Clanton), at 51 (Commissioner Bailey) and at 76 (Commissioner Pertschuk). Commissioner Douglas supports a statutory definition of deception. Prepared statement by Commissioner George W. Douglas, Hearing Before the Subcommittee for Consumers of the Committee on Commerce, Science and Transportation, United States Senate, 98th Cong. 1st Sess. (March 16, 1983) p. 2.

⁴ A misrepresentation is an express or implied statement contrary to fact. A misleading omission occurs when qualifying information necessary to prevent a practice, claim, representation, or reasonable expectation or belief from being misleading is not disclosed. Not all omissions are deceptive, even if providing the information would benefit consumers. As the Commission noted in rejecting a proposed requirement for nutrition disclosures, "In the final analysis, the question whether an advertisement requires affirmative disclosure would depend on the nature and extent of the nutritional claim made in the advertisement." *ITT Continental Baking Co. Inc.*, 83 F.T.C. 865, 965 (1976). In determining whether an omission is deceptive, the Commission will examine the overall impression created by a practice, claim, or representation. For example, the practice of offering a product for sale creates an implied representation that it is fit for the purposes for which it is sold. Failure to disclose that the product is not fit constitutes a deceptive omission. [See discussion below at 5-6] Omissions may also be deceptive where the representations made are not literally misleading, if those representations create a reasonable expectation or belief among consumers which is misleading, absent the omitted disclosure.

Non-deceptive omissions may still violate Section 5 if they are unfair. For instance, the R-Value Rule, 16 C.F.R. 460.5 (1983), establishes a specific method for testing insulation ability, and requires disclosure of the figure in advertising. The Statement of Basis and Purpose, 44 FR 50,242 (1979), refers to a deception theory to support disclosure requirements when certain misleading claims are made, but the rule's general disclosure requirement is based on an unfairness theory. Consumers could not reasonably avoid injury in selecting insulation because no standard method of measurement existed.

⁵ Advertising that lacks a reasonable basis is also deceptive. *Firestone*, 81 F.T.C. 398, 451-52 (1972), *aff'd*, 481 F.2d 246 (6th Cir.), *cert. denied*, 414 U.S. 1112 (1973). *National Dynamics*, 82 F.T.C. 488, 549-50 (1973); *aff'd and remanded on other grounds*, 492 F.2d 1333 (2d Cir.), *cert. denied*, 419 U.S. 993 (1974), *reissued*, 85 F.T.C. 391 (1976). *National Comm'n on Egg Nutrition*, 88 F.T.C. 89, 191 (1976), *aff'd*, 570 P.2d 157 (7th Cir.), *cert. denied*, 439 U.S. 821, *reissued*, 92 F.T.C. 848 (1978). The deception theory is based on the fact that most ads making objective claims imply, and many expressly state, that an advertiser has certain specific grounds for the claims. If the advertiser does not, the consumer is acting under a false impression. The consumer might have perceived the advertising differently had he or she known the advertiser had no basis for the claim. This letter does not address the nuances of the reasonable basis doctrine, which the Commission is currently reviewing. 48 FR 10,471 (March 11, 1983)

⁶ In *Beneficial Corp. v. FTC*, 542 F.2d 611, 617 (3d Cir. 1976), the court noted "the likelihood or propensity of deception is the criterion by which advertising is measured."

⁷ On evaluation of the entire document:

The Commission finds that many of the challenged Anacin advertisements, when viewed in their entirety, did convey the message that the superiority of this product has been proven [footnote omitted]. It is immaterial that the word "established", which was used in the complaint, generally did not appear in the ads; the important consideration is the net impression conveyed to the public. *American Home Products*, 98 F.T.C. 136, 374 (1981), *aff'd*, 695 F.2d (3d Cir. 1982).

On the juxtaposition of phrases:

On this label, the statement "Kills Germs By Millions On Contact" immediately precedes the assertion "For General Oral Hygiene Bad Breath, Colds and Resultant Sore Throats" [footnote omitted]. By placing these two statements in close proximity, respondent has conveyed the message that since Listerine can kill millions of germs, it can cure, prevent and ameliorate colds and sore throats [footnote omitted]. *Warner Lambert*, 86 F.T.C. 1398, 1489-90 (1975), *aff'd*, 562 F.2d 749 (D.C. Cir. 1977), *cert. denied*, 435 U.S. 950

(1978) (emphasis in original).

On the nature of the claim, *Firestone* is relevant. There the Commission noted that the alleged misrepresentation concerned the safety of respondent's product, "an issue of great significance to consumers. On this issue, the Commission has required scrupulous accuracy in advertising claims, for obvious reasons." 81 F.T.C. 398,456 (1972), *aff'd*, 481 F.2d 246 (6th Cir.), *cert. denied*, 414 U.S. 102 (1973).

In each of these cases, other factors, including in some instances surveys, were in evidence on the meaning of the ad.

⁸The evidence can consist of expert opinion, consumer testimony (particularly in cases involving oral representations), copy tests, surveys, or any other reliable evidence of consumer interpretation.

⁹As the Commission noted in the Cigarette rule, "The nature, appearance, or intended use of a product may create the impression on the mind of the consumer ... and if the impression is false, and if the seller does not take adequate steps to correct it, he is responsible for an unlawful deception." Cigarette Rule Statement of Basis and Purpose, 29 FR 8324, 8352 (July 2, 1964).

¹⁰*Porter & Dietsch*, 90 F.T.C. 770, 873-74 (1977), *aff'd*, 605 F.2d 294 (7th Cir. 1979), *cert. denied*, 445 U.S. 950 (1980); *Simeon Management Corp.*, 87 F.T.C. 1184, 1230 (1976), *aff'd*, 579 F.2d 1137 (9th Cir. 1978).

¹¹*See, e.g., Grolier*, 91 F.T.C. 315,480 (1978), *remanded on other grounds*, 615 F.2d 1215 (9th Cir. 1980), *modified on other grounds*, 98 FM 882 (1981), *reissued*, 99 F.T.C. 379 (1982).

¹²In *Peacock Buick*, 86 F.T.C. 1532 (1975), *aff'd*, 553 F.2d 97 (4th Cir. 1977), the Commission held that absent a clear and early disclosure of the prior use of a late model car, deception can result from the setting in which a sale is made and the expectations of the buyer ... *Id* at 1555.

Even in the absence of affirmative misrepresentations, it is misleading for the seller of late model used cars to fail to reveal the particularized uses to which they have been put... When a later model used car is sold at close to list price ... the assumption likely to be made by some purchasers is that, absent disclosure to the contrary, such car has not previously been used in a way that might substantially impair its value. In such circumstances, failure to disclose a disfavored prior use may tend to mislead. *Id* at 1557-58.

¹³In *Leonard Porter*, the Commission dismissed a complaint alleging that respondents' sale of unmarked products in Alaska led consumers to believe erroneously that they were handmade in Alaska by natives. Complaint counsel had failed to show that consumers of Alaskan craft assumed respondents' products were handmade by Alaskans in Alaska. The Commission was unwilling, absent evidence, to infer from a viewing of the items that the products would tend to mislead consumers.

By requiring such evidence, we do not imply that elaborate proof of consumer beliefs or behavior is necessary, even in a case such as this, to establish the requisite capacity to deceive. However, where visual inspection is inadequate, some extrinsic testimony evidence must be added. 88 F.T.C. 546, 626, n.5 (1976).

¹⁴*Bait and Switch Policy Protocol*, December 10, 1975; Guides Against Bait Advertising, 16 C.F.R. 238.0 (1967). 32 PR 15,540.

¹⁵*Encyclopedia Britannica* 87 F.T.C. 421, 497 (1976), *aff'd*, 605 F.2d 964 (7th Cir. 1979), *cert. denied*, 445 U.S. 934 (1980), *modified*, 100 F.T.C. 500 (1982).

¹⁶*See* the complaints in *Bayley Suit*, C-3117 (consent agreement) (September 30, 1983) [102 F.T.C. 1285];

Figgie International, Inc., D. 9166 (May 17, 1983).

¹⁷The Commission's complaints in *Chrysler Corporation*, 99 F.T.C. 347 (1982), and *Volkswagen of America*, 99 F.T.C. 446 (1982), alleged the failure to disclose accurate use and care instructions for replacing oil filters was deceptive. The complaint in *Ford Motor Co.*, D. 9154, 96 F.T.C. 362 (1980), charged Ford with failing to disclose a "piston scuffing" defect to purchasers and owners which was allegedly widespread and costly to repair. See also *General Motors*, D. 9145 (provisionally accepted consent agreement, April 26, 1983). [102 F.T.C. 1741]

¹⁸See *Jay Norris Corp.*, 91 F.T.C. 751 (1978), *aff'd with modified language in order*, 598 P.2d 1244 (2d Cir. 1979), *cert. denied*, 444 U.S. 980 (1979) (failure to consistently meet guarantee claims of "immediate and prompt" delivery as well as money back guarantees); *Southern States Distributing Co.*, 83 F.T.C. 1126 (1973) (failure to honor oral and written product maintenance guarantees, as represented); *Skylark Originals, Inc.*, 80 F.T.C. 337 (1972), *aff'd*, 475 F.2d 1396 (3d Cir. 1973) (failure to promptly honor moneyback guarantee as represented in advertisements and catalogs); *Capitol Manufacturing Corp.*, 73 F.T.C. 874 (1968) (failure to fully, satisfactorily and promptly meet all obligations and requirements under terms of service guarantee certificate).

¹⁹The evidence necessary to determine how reasonable consumers understand a representation is discussed in Section II of this letter.

²⁰An interpretation may be reasonable even though it is not shared by a majority of consumers in the relevant class, or by particularly sophisticated consumers. A material practice that misleads a significant minority of reasonable consumers is deceptive. See *Heinz W. Kirchner*, 63 F.T.C. 1282 (1963).

²¹A secondary message understood by reasonable consumers is actionable if deceptive even though the primary message is accurate. *Sears, Roebuck & Co.*, 95 F.T.C. 406, 511 (1980), *aff'd* 676 F.2d 385, (9th Cir. 1982); *Chrysler*, 87 F.T.C. 749 (1976), *aff'd*, 561 F.2d 357 (D.C. Cir.), *reissued* 99 F.T.C. 606 (1977); *Rhodes Pharmacal Co.*, 208 F.2d 382, 387 (7th Cir. 1953), *aff'd*, 348 U.S. 940 (1955).

²²*National Comm'n on Egg Nutrition*, 88 F.T.C. 89, 185 (1976), *enforced in part*, 570 F.2d 157 (7th Cir. 1977); *Jay Norris Corp.*, 91 F.T.C. 751, 836 (1978), *aff'd*, 598 F.2d 1244 (2d Cir. 1979).

²³*National Dynamics*, 82 F.T.C. 480, 524, 548 (1973), *aff'd*, 492 P.2d 1333 (2d Cir.), *cert. denied*, 419 U.S. 993 (1974), *reissued* 85 F.T.C. 39-1 (1976).

²⁴*Warner-Lambert*, 86 F.T.C. 1398, 1415 n.4 (1975), *aff'd*, 562 F.2d 749 (D.C. Cir. 1977), *cert. denied*, 435 U.S. 950 (1978).

²⁵*Grolier*, 91 F.T.C. 315, 430 (1978), *remanded on other grounds*, 615 F.2d 1215 (9th Cir. 1980), *modified on other grounds*, 98 F.T.C. 882 (1981), *reissued*, 99 F.T.C. 379 (1982).

²⁶*American Home Products*, 98 F.T.C. 136 (1981), *aff'd* 695 F.2d 681 (3d Cir. 1982). consumers may be led to expect, quite reasonably..." (at 386); "... consumers may reasonably believe..." (*Id.* n.52); "... would reasonably have been understood by consumers..." (at 371); "the record shows that consumers could reasonably have understood this language..." (at 372). See also, pp. 373, 374, 375. *Bristol-Myers*, D. 8917 (July 5, 1983), appeal docketed, No. 83-4167 (2nd Cir. Sept. 12, 1983)..... ads must be judged by the impression they make on reasonable members of the public..." (Slip Op. at 4); "... consumers could reasonably have understood..." (Slip Op. at 7); "... consumers could reasonably infer..." (Slip Op. at 11) [102 F.T.C. 21 (1983)]. *Sterling Drug, Inc.*, D. 8919 (July 5, 1983), appeal docketed, No. 83-7700 (9th Cir. Sept. 14, 1983)..... consumers could reasonably assume..." (Slip Op. at 9); "... consumers could reasonably interpret the ads..." (Slip Op. at 33). [102 F.T.C. 395 (1983)]

²⁷*Horizon Corp.*, 97 F.T.C. 464, 810 n.13 (1981).

²⁸*Simeon Management*, 87 F.T.C. 1184, 1230 (1976).

²⁹The listed categories are merely examples. Whether children, terminally ill patients, or any other subgroup of the population will be considered a special audience depends on the specific factual context of the claim or the practice.

The Supreme Court has affirmed this approach. "The determination whether an advertisement is misleading requires consideration of the legal sophistication of its audience." *Bates v. Arizona*, 433 U.S. 350, 383 n.37 (1977).

³⁰In one case, the Commission's complaint focused on seriously ill persons. The ALJ summarized: According to the complaint, the frustrations and hopes of the seriously ill and their families were exploited, and the representation had the tendency and capacity to induce the seriously ill to forego conventional medical treatment worsening their condition and in some cases hastening death, or to cause them to spend large amounts of money and to undergo the inconvenience of traveling for a non-existent "operation." *Travel King*, 86 F.T.C. 715, 719 (1975).

³¹*FTC v. Sterling Drug*, 317 F.2d 669, 674 (2d Cir. 1963).

³²Numerous cases exemplify this point. For instance, in *Pfizer*, the Commission ruled that "the net impression of the advertisement, evaluated from the perspective of the audience to whom the advertisement is directed, is controlling." 81 F.T.C. 23, 58 (1972).

³³In *Litton Industries*, the Commission held that fine print disclosures that the surveys included only "Litton authorized" agencies were inadequate to remedy the deceptive characterization of the survey population in the headline. 97 F.T.C. 1, 71, n.6 (1981), *aff'd as modified*, 676 F.2d 364 (9th Cir. 1982). Compare the Commission's note in the same case that the fine print disclosure "Litton and one other brand" was reasonable to quote the claim that independent service technicians had been surveyed. "[F]ine print was a reasonable medium for disclosing a qualification of only limited relevance." 97 F.T.C. 1, 70, n.5 (1981).

In another case, the Commission held that the body of the ad corrected the possibly misleading headline because in order to enter the contest, the consumer had to read the text, and the text would eliminate any false impression stemming from the headline. *D.L. Blair*, 82 F.T.C. 234, 255, 256 (1973).

In one case respondent's expert witness testified that the headline (and accompanying picture) of an ad would be the focal point of the first glance. He also told the administrative law judge that a consumer would spend [t]ypically a few seconds at most" on the ads at issue. *Crown Central*, 84 F.T.C. 1493, 1543 nn. 14-15 (1974).

³⁴In *Giant Food*, the Commission agreed with the examiner that the fine-print disclaimer was inadequate to correct a deceptive impression. The Commission quoted from the examiner's finding that "very few if any of the persons who would read Giant's advertisements would take the trouble to, or did, read the fine print disclaimer." 61 F.T.C. 326, 348 (1962).

Cf. Beneficial Corp. v. FTC, 542 P.2d 611, 618 (3d Cir. 1976), where the court reversed the Commission's opinion that no qualifying language could eliminate the deception stemming from use of the slogan "Instant Tax Refund."

³⁵Respondents argue that the contracts which consumers signed indicated that credit life insurance was not required for financing, and that this disclosure obviated the possibility of deception. We disagree. It is

clear from consumer testimony that ora. deception was employed in some instances to cause consumers to ignore the warning in their sales agreement. . . . *Peacock Buick*, 86 F.T.C. 1532, 1558-59 (1974).

³⁶*Exposition Press*, 295 F.2d 869, 873 (2d Cir. 1961); *Gimbel Bros.*, 61 F.T.C. 1051, 1066 (1962); *Carter Products*, 186 F.2d 821, 824 (1951).

By the same token, money-back guarantees do not eliminate deception. In *Sears*, the Commission observed:

A money-back guarantee is no defense to a charge of deceptive advertising... A money-back guarantee does not compensate the consumer for the often considerable time and expense incident to returning a major-ticket item and obtaining a replacement.

Sears, Roebuck and Co., 95 F.T.C. 406, 518 (1980), *aff'd*, 676 F.2d 385 (9th Cir. 1982). However, the existence of a guarantee, if honored, has a bearing on whether the Commission should exercise its discretion to prosecute. See Deceptive and Unsubstantiated Claims Policy Protocol, 1975.

³⁷See *American Home Products*, 98 F.T.C. 136, 370 (1981), *aff'd*, 695 F.2d 681, 688 (3d Cir. Dec. 3, 1982). Whether a disclosure on the label cures deception in advertising depends on the circumstances:

... it is well settled that dishonest advertising is not cured or excused by honest labeling (footnote omitted). Whether the ill-effects of deceptive nondisclosure can be cured by a disclosure requirement limited to labeling, or whether a further requirement of disclosure in advertising should be imposed, is essentially a question of remedy. As such it is a matter within the sound discretion of the Commission [footnote omitted]. The question of whether in a particular case to require disclosure in advertising cannot be answered by application of any hard-and-fast principle. The test is simple and pragmatic. Is it likely that, unless such disclosure is made, a substantial body of consumers will be misled to their detriment? *Statement of Basis and Purpose for the Cigarette Advertising and Labeling Trade Regulation Rule*, 1965, pp. 89-90. 29 FR 8325 (1964).

Misleading "door openers" have also been found deceptive (*Encyclopedia Britannica*, 87 F.T.C. 421 (1976), *aff'd*, 605 P.2d 964 (7th Cir. 1979), *cert. denied*, 445 U.S. 934 (1980), *as modified*, 100 F.T.C. 500 (1982)), as have offers to sell that are not bona fide offers (*Seekonk Freezer Meats, Inc.*, 82 F.T.C. 1025 (1973)). In each of these instances, the truth is made known prior to purchase.

³⁸In the *Listerine* case, the Commission held that pro forma statements of no absolute prevention followed by promises of fewer colds did not cure or correct the false message that Listerine will prevent colds. *Warner Lambert* 86 F.T.C. 1398, 1414 (1975), *aff'd*, 562 F.2d 749 (D.C. Cir. 1977), *cert. denied*, 435 U.S. 950 (1978).

³⁹*Chicago Metropolitan Pontiac Dealers' Ass'n, C.* 3110 (June 9, 1983). [101 F.T.C. 854 (1983)]

⁴⁰An opinion is a representation that expresses only the behalf of the maker, without certainty, as to the existence of a fact, or his judgement as to quality, value, authenticity, or other matters of judgement. American Law Institute, *Restatement on Torts*, Second ¶ 538 A.

⁴¹*Id.* ¶ 539. At common law, a consumer can generally rely on an expert opinion. *Id.*, ¶ 542(a). For this reason, representations of expert opinion will generally be regarded as representations of fact.

⁴²"[T]here is a category of advertising themes, in the nature of puffing or other hyperbole, which do not amount to the type of affirmative product claims for which either the Commission or the consumer would expect documentation." *Pfizer, Inc.*, 81 F.T.C. 23, 64 (1972).

The term "Puffing" refers generally to an expression of opinion not made as a representation of fact. A seller has some latitude in puffing his goods, but he is not authorized to misrepresent them or to assign to them benefits they do not possess [cite omitted]. Statements made for the purpose of deceiving prospective purchasers cannot properly be characterized as mere puffing. *Wilmington Chemical*, 69 F.T.C. 828, 865 (1966).

⁴³In *Avalon Industries*, the ALJ observed that the "ordinary person with a common degree of familiarity with industrial civilization" would expect a reasonable relationship between the size of package and the size of quantity of the contents. He would have no reason to anticipate slack filling." 83 F.T.C. 1728, 1750 (1974) (I.D.).

⁴⁴"A misleading claim or omission in advertising will violate Section 5 or Section 12, however, only if the omitted information would be a material factor in the consumer's decision to purchase the product." *American Home Products Corp.*, 98 F.T.C. 136,368 (1981), *aff'd*, 695 F.2d 681 (3d Cir. 1982). A claim is material if it is likely to affect consumer behavior. "Is it likely to affect the average consumer in deciding whether to purchase the advertised product-is there a material deception, in other words?" Statement of Basis and Purpose, *Cigarette Advertising and Labeling Rule*, 1965, pp. 86-87, 29 FR 8325 (1964).

⁴⁵Material information may affect conduct other than the decision to purchase a product. The Commission's complaint in *Volkswagen of America*, 99 F.T.C. 446 (1982), for example, was based on provision of inaccurate instructions for oil filter installation. In its *Restatement on Torts, Second*, the American Law Institute defines a material misrepresentation or omission as one which the reasonable person would regard as important in deciding how to act, or one which the maker knows that the recipient, because of his or her own peculiarities, is likely to consider important. Section 538(2). The Restatement explains that a material fact does not necessarily have to affect the finances of a transaction. "There are many more-or-less sentimental considerations that the ordinary man regards as important." Comment on Clause 2(a)(d).

⁴⁶In evaluating materiality, the Commission takes consumer preferences as given. Thus, if consumers prefer one product to another, the Commission need not determine whether that preference is objectively justified. See *Algoma Lumber*, 291 U.S. 54, 78 (1933). Similarly, objective differences among products are not material if the difference is not likely to affect consumer choices.

⁴⁷The Commission will always consider relevant and competent evidence offered to rebut presumptions of materiality.

⁴⁸Because this presumption is absent for some implied claims, the Commission will take special caution to ensure materiality exists in such cases.

⁴⁹*Central Hudson Gas & Electric Co. v. PSC*, 447 U.S. 557, 567 (1980).

⁵⁰*Cf. Restatement on Contracts, Second* ¶ 162(l).

⁵¹In *American Home Products*, the evidence was that the company intended to differentiate its products from aspirin. The very fact that AHP sought to distinguish its products from aspirin strongly implies that knowledge of the true ingredients of those products would be material to purchasers." *American Home Products*, 98 F.T.C. 136, 368 (1981), *aff'd*, 695 F.2d 681 (3d Cir. 1982).

⁵²In *Fedders*, the ads represented that only Fedders gave the assurance of cooling on extra hot, humid days. "Such a representation is the *raison d'être* for an air conditioning unit-it is an extremely material representation." 85 F.T.C. 38, 61 (1975) (I.D.), *petition dismissed*, 529 F.2d 1398 (2d Cir.), *cert. denied*, 429 U.S. 818 (1976).

⁵³"We note at the outset that both alleged misrepresentations go to the issue of the safety of respondent's product, an issue of great significance to consumers." *Firestone*, 81 F.T.C. 398, 456 (1972), *aff'd*, 481 P.2d 246 (6th Cir.), *cert. denied*, 414 U.S. 1112 (1973).

⁵⁴The Commission found that information that a product was effective in only the small minority of cases where tiredness symptoms are due to an iron deficiency, and that it was of no benefit in all other cases, was material. *J.B. Williams Co.*, 68 F.T.C. 481, 546 (1965), *aff'd*, 381 F.2d 884 (6th Cir. 1967).

⁵⁵As the Commission noted in *MacMillan, Inc.*:

In marketing their courses, respondents failed to adequately disclose the number of lesson assignments to be submitted in a course. These were material facts necessary for the student to calculate his tuition obligation, which was based on the number of lesson assignments he submitted for grading. The nondisclosure of these material facts combined with the confusion arising from LaSalle's inconsistent use of terminology had the capacity to mislead students about the nature and extent of their tuition obligation. *MacMillan, Inc.*, 96 F.T.C. 208, 303-304 (1980).

See also, *Peacock Buick*, 86 F.T.C. 1532, 1562 (1975), *aff'd*, 553 F.2d 97 (4th Cir. 1977).

⁵⁶*Simeon Management Corp.*, 87 F.T.C. 1184 (1976), *aff'd*, 579 P.2d 1137, 1168, n.10 (9th Cir. 1978).

⁵⁷In *American Home Products*, the Commission approved the ALJ's finding of materiality from an economic perspective:

If the record contained evidence of a significant disparity between the prices of Anacin and plain aspirin, it would form a further basis for a finding of materiality. That is, there is a reason to believe consumers are willing to pay a premium for a product believed to contain a special analgesic ingredient but not for a product whose analgesic is ordinary aspirin. *American Home Products*, 98 F.T.C. 136, 369 (1981), *aff'd*, 695 F.2d 681 (3d Cir. 1982).

⁵⁸The prohibitions of Section 5 are intended to prevent injury to competitors as well as to consumers. The Commission regards injury to competitors as identical to injury to consumers. Advertising and legitimate marketing techniques are intended to "lure" competitors by directing business to the advertiser. In fact, vigorous competitive advertising can actually benefit consumers by lowering prices, encouraging product innovation, and increasing the specificity and amount of information available to consumers. Deceptive practices injure both competitors and consumers because consumers who preferred the competitor's product are wrongly diverted.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB21
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title "An Act relating to false statements RDU Elections
in state election advertising..." Component Elections
 Sponsor Representatives Ramras, Wilson
 Requester (H) State Affairs Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0					
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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 If passed, this legislation will not have a fiscal impact on the Division of Elections.

Prepared by: Lauri Allred, Admin Assistant Supervisor Phone 465-4611
 Division: Division of Elections Date/Time 1/24/05 8:57 AM
 Approved by: Laura A. Glaiser, Director Date 1/24/2005
 Agency: Office of the Lt. Governor, Division of Elections

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 21
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: An Act relating to false statements RDU: Alaska Public Offices Commission
in State election advertising Component: Alaska Public Offices Commission
 Sponsor: Ramras
 Requester: House State Affairs Component No.: 70

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	*	*	*	*	*	*
Travel						
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

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--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	*	*	*	*	*	*
Part-time	*	*	*	*	*	*
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This bill seeks to establish a "truth in advertising" component to the Campaign Disclosure Law, AS 15.13. If enacted this bill may have substantial fiscal impact on the Public Offices Commission due to the broad nature of the new subject (false statements) for complaints. It is anticipated that several complaints will be filed under the new provision, however we are unable to determine the specific fiscal needs that will result from complaints alleging false statements in political advertising. Therefore, we are filing an indeterminate fiscal note at this time.

Prepared by: Brooke Miles, Executive Director Phone 907-334-1726
 Division: Alaska Public Offices Commission Date/Time 1/24/05 4:15 PM
 Approved by: Mike Tibbles, Deputy Commissioner Date 1/24/2005
 Agency: Department of Administration

Louie Flora

Subject: FW: HB 21

-----Original Message-----

From: Brooke Miles [mailto:Brooke_Miles@admin.state.ak.us]
Sent: Monday, January 31, 2005 10:27 AM
To: Louie Flora
Subject: HB 21

Louie Flora
House State Affairs Committee Aide

Hi Louie. I'm sorry for the delay in writing to you concerning the number of phone calls regarding the factual accuracy of election campaign advertising that APOC received during the 2004 election cycle.

We received 50 - 75 phone calls regarding truth in political advertising. Some of them were regarding the federal election for Senate, over which APOC had no authority. The authority for Federal elections is held by the Federal Elections Commission. Based on the inquiries we received last year, we believe it would be a fair estimate to plan for 8 - 10 complaints being filed on this issue. As I testified before the Committee last week, this will have fiscal impact on the Commission's ability to keep up and to meet its mission. If you would like any additional information, please let me know.

Brooke Miles,
Executive Director
APOC

candidate is running may recover damages in an action in superior court under this section against the individual who made the telephone call, the individual's employer, and the person who contracted for or authorized the poll or calls to convince. However, the employer of the individual or the person who contracted for or authorized the poll or calls to convince is liable to the defamed candidate only if the employer or person authorized the statement to be made, knowing that it was false or with reckless disregard for whether it was false or not, as part of the poll or calls to convince.

(b) The court may award damages, including punitive damages. If the court finds that the result of the statement places the integrity of the election process in substantial doubt, the eligibility of the successful candidate to hold the office to which elected shall be determined as provided in AS 15.56.110(b) or, in the case of a candidate for governor or lieutenant governor, by impeachment under art. II, sec. 20, Constitution of the State of Alaska. (§ 1 ch 142 SLA 1996)

Sec. 15.13.100. Expenditures before filing. A political campaign expenditure may not be made or incurred by a person in an election or by a person or group with the person's knowledge and on the person's behalf before the date upon which the person files for nomination for the office which the person seeks, except for personal travel expenses or for opinion surveys or polls. These expenditures must be included in the first report required under this chapter after filing for office. (§ 1 ch 76 SLA 1974; am § 23 ch 189 SLA 1975; am § 25 ch 14 SLA 1987)

Sec. 15.13.110. Filing of reports. (a) Each candidate, group, and nongroup entity shall make a full report in accordance with AS 15.13.040 for the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report. If the report is a first report, it must cover the period from the beginning of the campaign to the date three days before the due date of the report. If the report is a report due February 15, it must cover the period beginning on the last day covered by the most recent previous report or on the day that the campaign started, whichever is later, and ending on February 1 of that year. The report shall be filed

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) 105 days after a special election; and

(4) February 15 for expenditures made and contributions received that were not reported previously, including, if applicable, all amounts expended from a public office expense term account established under AS 15.13.116(a)(8) and all amounts expended from a municipal office account under AS 15.13.116(a)(9), or when expenditures were not made or contributions were not received during the previous year.

(b) Each contribution that exceeds \$250 and that is made within nine days of the election shall be reported to the commission by date, amount, and contributor within 24 hours of receipt by the candidate, group, campaign treasurer, or deputy campaign treasurer. Each contribution to a nongroup entity for the purpose of influencing the outcome of an election that exceeds \$250 and that is made within nine days of the election shall be reported to the commission by date, amount, and contributor within 24 hours of receipt by the nongroup entity.

(c) All reports required by this chapter shall be filed with the commission's central office and shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

(d) *[Repealed, § 35 ch 126 SLA 1994.]*

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report

within 10 days after the expenditures made due to this section.

(f) During the year the campaign disclosure

(1) a person who, under 15.13.100, indicates a legislative office;

(2) a person who has become a candidate at

(3) a person who occupies legislative office at the

(4) a group or nongroup on behalf of or in opposition

provided for certain in

(§ 1 ch 76 SLA 1974; am § 49 SLA 1993; am § 35

am §§ 16 — 18 ch 48

§§ 20 — 22 ch 1 SLA

Cross references. — For enacting subsection (f), see the Temporary and Special Effect of amendments, effective August 29, 1995, at

The first 1996 amendment substituted "primary" for (f)(2).

The second 1996 amendment, 1997, in subsection (a), in effect, all amounts expended from an account established under AS 15.13.116(a)(10), and, in subsection (c), deletion which read "the report filed with the commission's" "shall be filed with the commission."

The 1998 amendment, effective August 29, 1998, substituted "a public office expense term account" for "legislative office account" and made substitutions in paragraph (c).

The 2001 amendment, effective August 29, 2001, substituted "general election" for "primary" in paragraph (f)(2).

Disclosure requirements. The disclosure requirements are unconstitutionally vague and violate the constitutional privacy. *VECO Int'l, Inc. v. Alaska*

Sec. 15.13.112. Use

(a) Except as otherwise provided, this section may be used only to report expenses incurred by a person in connection with activities, and in those

(b) Campaign contributions

(1) used to give a person

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

- (i) a billboard or sign; or
- (ii) printed material, other than an advertisement made in a newspaper or other periodical;
- (2) using a fictitious name or using the name of another. (§ 14 ch 48 SLA 1996; am § 17 ch 1 SLA 2002)

Effect of amendments. — The 2002 amendment, effective April 16, 2002, in paragraph (1) inserted "or nongroup entity" in subparagraph (A).

Sec. 15.13.086. Authorized makers of expenditures. An expenditure

- (1) authorized by or in behalf of a candidate may be made only by
 - (A) the candidate; or
 - (B) the candidate's campaign treasurer or a deputy campaign treasurer;
- (2) authorized by AS 15.13.067(3) by or in behalf of a group may be made only by the group's campaign treasurer. (§ 14 ch 48 SLA 1996)

Sec. 15.13.090. Identification of communication. (a) All communications shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group, nongroup entity, or individual paying for the communication. In addition, candidates and groups may identify the name of their campaign chairperson.

- (b) The provisions of (a) of this section do not apply when the communication
 - (1) is paid for by an individual acting independently of any group or nongroup entity and independently of any other individual;
 - (2) is made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065(c); and
 - (3) is made for
 - (A) a billboard or sign; or
 - (B) printed material other than an advertisement made in a newspaper or other periodical. (§ 1 ch 76 SLA 1974; am § 22 ch 189 SLA 1975; am § 36 ch 100 SLA 1980; am § 15 ch 48 SLA 1996; am §§ 18, 19 ch 1 SLA 2002; am § 5 ch 1 TSSLA 2002)

Revisor's notes. — In 2009, "chairperson" was substituted for "chairman" in (a) of this section in accordance with see 95(3), ch. 82, SLA 2000.

Effect of amendments. — The 1996 amendment, effective January 1, 1997, added subsection (b).

The first 2002 amendment, effective April 16, 2002, substituted subsection (a) and paragraph (b)(1) inserted references to nongroup entities.

The second 2002 amendment, effective June 26, 2002, rewrote subsection (a) and substituted "communication" for "advertisement" in the introductory language of subsection (b).

Editor's notes. — From April 16, 2002 through July 25, 2002, this section read as follows: "Identification of communication. (a) All advertisements, billboards, handbills, paid-for television and radio announcements, and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name

and address of the candidate, group, nongroup entity, or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign chairperson.

(b) The provisions of (a) of this section do not apply when the advertisement

(1) is paid for by an individual acting independently of any group or nongroup entity and independently of any other individual;

(2) is made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065(c); and

(3) is made for
 (A) a billboard or sign; or
 (B) printed material other than an advertisement made in a newspaper or other periodical."

Collateral references. — Validity and construction of state statute prohibiting anonymous political advertising. 4 ALR4th 741.

Sec. 15.13.095. False statements in telephone polling and calls to convince.

(a) A candidate who is damaged as the result of a false statement about the candidate made with knowledge that it was false, or with reckless disregard for whether it was false or not, made as part of a telephone poll or an organized series of calls, and made with the intent to convince potential voters concerning the outcome of an election in which the

HB

22

24-LS0163VA
Cook
11/15/04

CS 22
HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SAMUELS

Introduced:
Referred:

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a 90-day regular session of the legislature."

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

3 * Section 1. AS 24.05.150 is amended by adding a new subsection to read:

4 (b) The legislature shall adjourn from a regular session within 90 consecutive
5 calendar days, including the day the legislature first convenes in that regular session.

~~_____~~
Gov vs Legis
Interim - ~~Dis~~ meetings + pass from committee
but not
work date instead.

Elkins
Greenberg

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB22
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
 Title Proposing an amendment to the BRU Leg Council, Leg Operating Budget
Constitution of the State of Alaska relating to the duration..... Component All
 Sponsor "Representatives Samuels, Rokeberg....."
 Requester House State Affairs Component No. 782

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	(516.0)	(516.0)	(516.0)	(516.0)	(516.0)
Travel	0.0	(270.0)	(270.0)	(270.0)	(270.0)	(270.0)
Contractual	0.0	(21.0)	(21.0)	(21.0)	(21.0)	(21.0)
Supplies	0.0	(21.0)	(21.0)	(21.0)	(21.0)	(21.0)
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	(828.0)	(828.0)	(828.0)	(828.0)	(828.0)

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	(828.0)	(828.0)	(828.0)	(828.0)	(828.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	(828.0)	(828.0)	(828.0)	(828.0)	(828.0)

Estimate of any current year (FY2005) cost: _____
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB22 would limit the regular session to 90 days. If this Legislation becomes law, the 1st session of the 25th Legislature would convene for 90 days. The Legislature would realize a cost savings of approximately \$27.6 per day for each day of a shorter session. Shortening the session by 30 days would result in a cost savings of, 30 times \$27.6, or \$828.0 per year.

The Legislature traditionally charges expenses occurring during session to session expense accounts and expenses occurring during the interim to interim expense accounts. For example: Most legislative staff payroll costs are charged to operating expense accounts during the interim. Staff salaries for most legislative staffers are charged to session during the session. The Legislature's payroll is higher

Prepared by: Karla Schofield, Deputy Director Phone 465-3852
 Division: Administrative Services Date/Time 4/27/05 2:48 PM
 Approved by: Pamela A. Varni, Executive Director Date 4/27/2005
 Agency: Legislative Affairs Agency

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB22 _____

ANALYSIS CONTINUATION

during a legislative session. If the regular session were shortened to 90 days, the session payroll would decrease and the interim payroll would increase. There would be a decrease in the total amount of the payroll due to the higher cost of personal services during a session. The majority of the personal services costs would be a transfer of costs between allocations.

The costs below are for items not needed for a shorter session.

	Per Day	times 30 days	Total
Personal Services	17.2	30	516.0
Travel			
Session per diem costs 10.0 per day. If session were shortened more long term per diem claims would be filed during the year, approximately 1.0 per day 10.0 - 1.0 = 9.0	9.0	30	270.0
Contractual			
Telephones, chaplin fees, copier maintenance	0.7	30	21.0
Supplies	0.7	30	21.0
Lounge supplies			
Printshop paper supplies	_____		_____
	27.6		828.0
Current number of session days	120		
Proposed number of session days	90		

	30		

REPRESENTATIVE RALPH SAMUELS

HOUSE DISTRICT 29

HB 22 Sponsor Statement

"An Act relating to a 90-day regular session of the legislature."

By Representatives Samuels and Rokeberg

House Bill 22 would amend Alaska statutes to limit regular legislative session to 90 consecutive days.

90 days is more than enough time for the Legislature to complete its business. In an era of decreasing budgets, reducing the session by thirty days would save state funds. Shorter sessions would: (1) save almost \$1 million in per diem and staffing costs; (2) aid in candidate recruitment; (3) and focus the public attention. Other states can do their work in 90 days or less -- Alaska should be able to accomplish this also. Fourteen other states have legislative session of 90 days or less.

Another benefit of shorter sessions is that Alaskans want citizen-legislators. Legislators should be able to carry on a livelihood outside of legislative work. Shorter sessions would encourage a larger number of people to run for office and still be able to make a living at their everyday jobs.

Prior to 1984, the Legislature had no time limit on the number of days it could remain in session. The voters approved the present 120-day limit on November 6, 1984. Since that time, it has been amply proven that the Alaska Legislature can operate within a time limit. It is now time to shorten that session limit so that the business of the people can be addressed in a reasonable manner within a reasonable time limit.

Your positive consideration of this measure would be appreciated.

Email: Representative_Ralph_Samuels@legis.state.ak.us

**Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-2095 Fax: (907) 465-3810
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0246 Fax: (907) 269-0242**



Legislative Sessions

Annual v. Biennial

In the early 1960s, only 19 state legislatures met annually. The remaining 31 held biennial regular sessions. All but three (Kentucky, Mississippi and Virginia) held their biennial session in the odd-numbered year. Ten of the 19 states with annual sessions limited the "off-year" to consideration of budgetary and fiscal matters.

By the mid-1970s, the number of states meeting annually grew tremendously--up from 19 to 41. However, several of these states used a "flexible" session format in which the total days of session time was divided between two years; these states included Minnesota, North Carolina, Tennessee and Vermont.

Today, 44 state legislatures meet annually. The remaining six states--Arkansas, Montana, Nevada, North Dakota, Oregon and Texas--hold session every other year. All of the biennial legislatures hold their regular sessions in the odd year. Six states have limited scope sessions--that is, where one year of the biennium is limited to consideration of specific types of legislation. The states with limited scope sessions are Connecticut, Louisiana, Maine, New Mexico, North Carolina and Wyoming.

Kentucky, New Hampshire and Washington were the last states to change from biennial to annual regular sessions; these states held their first annual sessions in 2001, 1985 and 1981, respectively.

There are several basic arguments used by the respective proponents of annual or biennial sessions. Listed below are the ones set out by political scientists, William Keefe and Morris Ogul.

Limits on Session Length

How many States w/ gov. ACT

State	1962-63	1972-73	1982-83	Nov 2001
Alabama			30 L in 105 C	30 L in 105 C (by statute)
Alaska	None	None	None	120 C
Arizona	63 C (indirect)	None	Sat of week in which 100 th C falls (chamber rule)	Sat of week in which 100 th C falls (chamber rule)
Arkansas				
California	Odd-120 C Even-30 C	None	None	Even-Nov 30 (constitution) Odd-Sept 12 Even-Aug 31 (chamber rule)
Colorado	160 C within biennium (indirect)	None	Odd-None Even-140 C	120 C
Connecticut		Odd-Wed after 1 st Mon in June Even-Wed after 1 st Mon in May	Odd-Wed after 1 st Mon in June Even-Wed after 1 st Mon in May	Odd-Wed after 1 st Mon in June Even-Wed after 1 st Mon in May
Delaware	Odd-90 L Even-30 L	June 30	June 30	June 30
Florida		60 C	60 C	60 C
Georgia	Odd-45 C Even-40 C	Odd-45 L Even-40 L	40 L	40 L
Hawaii	Odd-60 C Even-30 C	60 L	60 L	60 L
Idaho		60 C (indirect)	None	None
Illinois		None	None	None

Indiana		Odd-61 L or April 30 Even-30 L or March 15	Odd-61 L or April 30 Even-30 L or March 15	Odd-Apr 29 Even-Mar 14 (by statute)
Iowa		None	(indirect)	Odd-110 C Even-100 C (indirect)
Kansas	Odd-90 L Even-30 C (indirect)	Odd-90 C Even-60 C (indirect)	Odd-None Even-90 C	Odd-None Even-90 C
Kentucky				Odd: 30 L or Mar 30 Even:60 L or Apr 15
Louisiana	Odd-30 C Even-60 C	Odd-30 C Even 60 C	60 L in 85 C	Odd-60 L in 85 C Even-30 L in 45 C
Maine			Odd-100 L Even-50 L	Odd-3 rd Wed in June Even-3 rd Wed in Apr (by statute)
Maryland	Odd-90 C Even-30 C	90 C	90 C	90 C
Massachusetts	None	None	None	Formal sessions: Odd-3 rd Wed in November Even-July 31 Informal sessions: None (by chamber rule)
Michigan	None	None	None	None
Minnesota			120 L total within biennium or 1 st Mon after 3 rd Sat in May each year	120 L total within biennium or 1 st Mon after 3 rd Sat in May each year

Texas				
Utah		Odd-60 C Even-20 C	Odd-60 C Even-20 C	45 C
Vermont			(indirect)	None
Virginia		Odd-30 C Even-60 C	Odd-30 C Even-60 C	Odd-30 C Even-60 C
Washington			Odd-105 C Even-60 C	Odd-105 C Even-60 C
West Virginia	Odd-60 C Even 30 C	60 C	60 C	60 C
Wisconsin		None	None	None
Wyoming		Odd-40 L Even 20 L	Odd-40 L Even-20 L	Odd-40 L Even-20 L

Key:

C = calendar day
L = legislative day

No highlight = annual session
Turquoise highlight = biennial session
Gray highlight = "flexible" session format

For more information:

Contact Brenda Erickson at brenda.erickson@ncsl.org or (303) 830-2200.

As of November 2001

National Conference of State Legislatures
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For Annual Sessions	For Biennial Sessions
<p>1. The biennial format is unsuitable for dealing with the complex and continuing problems which confront today's legislatures. The responsibilities of a legislature have become so burdensome that they can no longer be discharged on an alternate-year basis.</p>	<p>1. There are enough laws. Biennial sessions constitute a safeguard against precipitate and unseemly legislative action.</p>
<p>2. More frequent meetings may serve to raise the status of the legislature, thereby helping to check the flow of power to the executive branch.</p>	<p>2. Yearly meetings of the legislature will contribute to legislative harassment of the administration and its agencies.</p>
<p>3. Continuing legislative oversight of the administration becomes more feasible with annual sessions, and that administrative accountability for the execution of legislative policies is more easily enforced.</p>	<p>3. The interval between sessions may be put to good advantage by individual legislators and interim study commissions, since there is never sufficient time during a session to study proposed legislation.</p>
<p>4. States may respond more rapidly to new federal laws which require state participation.</p>	<p>4. The biennial system affords legislators more time to renew relations with constituents, to mend political fences and to campaign for reelection.</p>
<p>5. The legislature cannot operate effectively in fits and starts. Annual sessions may help make the policy-making process more timely and orderly</p>	<p>5. Annual sessions inevitably lead to a spiraling of legislative costs, for the legislators and other assembly personnel are brought together twice as often.</p>
<p>6. Annual sessions would serve to diminish the need for special sessions.</p>	

Session Length

In the early 1960s, 17 states did not place restrictions on the length of their legislative sessions. In another 10 states, the limits were indirect--being set by restrictions on legislator compensation, per diem or travel reimbursements. Several states increased their session length. These were Colorado (from 120 to 160); Georgia (from 80 to 85); Kansas (from 90 to 120); Minnesota (from 90 to 120); and South Dakota (from 60 to 75).

Throughout the 1970s, 1980s and early 1990s, session limitations were becoming more defined. Fewer states had unrestricted sessions, and the number of states with indirect session limits had fallen.

Currently, only 12 states do not place a limit on the length of regular session. The remaining 38 set limits through a variety of ways. Constitutional provisions establish the limits in 28 states. Indirect limits on legislator compensation, per diem or mileage reimbursement are in effect in 3 states. Statutory provisions set the restrictions in 4, and another 3 use chamber rules.

Legislative Research Services

Alaska State Legislature
Legislative Affairs Agency
Division of Legal and Research Services

State Capitol
Juneau, AK 99801
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March 25, 2003

Memorandum

TO: Representative Ralph Samuels

FROM: Patricia Young
Manager

RE: Session Length and Bills Passed

You asked for information on session length and the number of bills passed during various legislatures. We include, as Attachment A, pertinent pages from the *Summary of Alaska Legislation 2002* showing information on legislative sessions since statehood, as well as pages showing the numbers of bills introduced in each chamber and the number that became law during each Legislature.

For each Legislature, the Legislative Affairs Agency also publishes a *Final Status of Bills and Resolutions*, and these contain a statistical summary of measures before the House and a similar summary for measures before the Senate. As Attachment B, we include information on the number of bills and resolutions passed by both chambers from 1979 through 1992. This information was taken from the various editions of the *Final Status of Bills and Resolutions*. Please note that because of the way legislation was tabulated in prior years, the numbers may be somewhat high. In some instances, a bill may have passed one chamber in a different form than it passed the other chamber and no concurrence or rescission occurred. While such legislation is counted as having passed both bodies, it did not pass in the same form and, thus, could not become law.

We also include, as Attachment C, a copy of a research report showing the number of bills passed during the final two weeks of session in 1985-87. This report, and supplemental information, is 88.113.

I hope this is helpful. Please let us know if you have questions or need additional information.

ALASKA STATE LEGISLATURE
SESSION LENGTH AND PERCENTAGE OF DAYS WITH FLOOR SESSIONS, 1981-2000

LEGISLATURE	YEAR	HOUSE				SENATE			
		SPEAKER	SESSION LENGTH(1)	DAYS NOT IN SESSION(2)	PERCENTAGE OF DAYS IN SESSION	PRESIDENT	SESSION LENGTH(1)	DAYS NOT IN SESSION(2)	PERCENTAGE OF DAYS IN SESSION
Twelfth	1981(4) 1982	J. Duncan	165	45	68%	J. Kerttula	164	46	73%
		J. Duncan	143	54		J. Kerttula	144	38	
Thirteenth	1983 1984	J. Hayes	161	62	64%	J. Kerttula	162	45	71%
		J. Hayes	152	53		J. Kerttula	152	46	
Fourteenth (First legislature under 120-day session limit)	1985(4) 1986	B. Grussendorf	119	50	57%	D. Bennett	119	33	73%
		B. Grussendorf	120	52		D. Bennett	120	33	
Fifteenth	1987(4) 1988	B. Grussendorf	122	54	58%	J. Falke	121	33	72%
		B. Grussendorf	121	49		J. Falke	121	36	
Sixteenth	1989 1990(4)	S. Cotion	121	50	61%	T. Kelly	121	37	74%
		S. Cotion	122(3)	46		T. Kelly	121	33	
Seventeenth	1991 1992(4)	B. Grussendorf	122(3)	54	67%	R. Eliason	121	55	55%
		B. Grussendorf	122(3)	53		R. Eliason	121	56	
Eighteenth	1993 1994(4)	R. Barnes	121	54	57%	R. Hallford	121	44	60%
		R. Barnes	121	51		R. Hallford	121	54	
Nineteenth	1995 1996(4)	G. Phillips	121	46	59%	D. Pearce	121	42	60%
		G. Phillips	122(3)	54		D. Pearce	122(3)	54	
Twentieth	1997 1998(4)	G. Phillips	119	50	59%	M. Miller	119	48	65%
		G. Phillips	121	49		M. Miller	121	37	
Twenty-First	1999(4) 2000(4)	B. Porter	121	52	56%	D. Pearce	121	38	69%
		B. Porter	115	53		D. Pearce	115	35	

Notes:

- (1) Session lengths as published in "Summary of Alaska Legislation," Legislative Affairs Agency, Alaska State Legislature.
- (2) Information obtained from Alaska State Legislature's printed House and Senate Journals, and Legislative Affairs Agency Followups Database.
- (3) House adjourned after midnight on the 121st day.
- (4) Legislature went into special session.

LEGISLATIVE SESSIONS SINCE STATEHOOD

Legislature/Session & Number of Days	Day/Date Convened	Day/Date Adjourned	Adjournment Time	
			SENATE	HOUSE
1ST LEGISLATURE: 1959 - 1960 1st Session - 81 days 2nd Session - 85 days	Mo 1/26/59 Mo 1/25/60	Tu 4/16/59 Tu 3/29/60	9:50pm 12:00pm	9:45pm 12:00pm
2ND LEGISLATURE: 1961 - 1962 1st Session - 74 days 2nd Session - 81 days	Mo 1/23/61 Mo 1/22/62	Th 4/6/61 Th 4/12/62	2:01am 1:22am	2:20am 1:10am
3RD LEGISLATURE: 1963 - 1964 1st Session - 76 days 2nd Session - 85 days* 1st Special Session - 3 days *Formal recess, 40 days	Mo 1/28/63 Mo 1/27/64 Mo 8/31/64	Sa 4/13/63 Sa 5/30/64 We 9/2/64	10:48am 1:00am 11:12am	10:45am 1:00am 11:08am
4TH LEGISLATURE: 1965 - 1966 1st Session - 75 days 2nd Session - 84 days	Mo 1/25/65 Mo 1/24/66	Fr 4/9/65 Su 4/17/66	4:32am 1:14am	4:35am 1:28am
5TH LEGISLATURE: 1967 - 1968 1st Session - 77 days 1st Special Session - 6 days 2nd Session - 86 days	Mo 1/23/67 Fr 9/29/67 Mo 1/22/68	Su 4/9/67 We 10/4/67 Tu 4/16/68	11:35am 2:37am 8:05am	11:32am 2:35am 8:00am
6TH LEGISLATURE: 1969 - 1970 1st Session - 95 days 2nd Session - 147 days	Mo 1/27/69 Mo 1/12/70	Th 5/1/69 Su 6/7/70	4:18am 3:33am	4:30am 3:51am
7TH LEGISLATURE: 1971 - 1972 1st Session - 121 days 2nd Session - 161 days	Mo 1/11/71 Mo 1/10/72	Tu 5/11/71 Tu 6/18/72	3:23am 12:50am	3:26am 12:59am
8TH LEGISLATURE: 1973 - 1974 1st Session - 90 days 1st Special Session - 27 days 2nd Session - 96 days 2nd Special Session - 4 days	Mo 1/8/73 We 10/17/73 Mo 1/21/74 Mo 6/17/74	Sa 4/7/73 Mo 11/12/73 Fr 4/27/74 Th 6/20/74	5:45pm 4:35pm 8:21pm 8:17pm	5:50pm 4:35pm 8:25pm 6:12pm
9TH LEGISLATURE: 1975 - 1976 1st Session - 139 days 2nd Session - 142 days	Mo 1/20/75 Mo 1/12/76	Sa 8/7/75 Tu 6/1/76	2:30am 8:19am	2:43am 8:14am
10TH LEGISLATURE: 1977 - 1978 1st Session - 141 days 2nd Session - 161 days	Mo 1/10/77 Mo 1/9/78	Mo 5/30/77 Su 6/18/78	10:41am 9:32pm	12:33pm 11:36pm
11TH LEGISLATURE: 1979 - 1980 1st Session - 112 days 1st Special Session - 3 days 2nd Session - 145 days 2nd Special Session - 3 days	Mo 1/15/79 Mo 8/8/79 Mo 1/14/80 Mo 9/22/80	Su 5/6/79 We 8/8/79 Fr 6/6/80 We 9/24/80	12:15pm 2:16pm 8:43pm (6/5) 9:38am	3:00pm 7:26pm (8/7) 1:01am 2:55am (9/23)
12TH LEGISLATURE: 1981 - 1982 1st Session - 165 days 1st Special Session - 3 days 2nd Session - 144 days	Mo 1/12/81 Mo 7/13/81 Mo 1/11/82	Th 6/25/81 We 7/15/81 We 6/3/82	7:06pm (6/24) 6:11pm (7/14) 5:35pm	12:23am 1:32am 7:23am (6/2)
13TH LEGISLATURE: 1983 - 1984 1st Session - 162 days 2nd Session - 152 days	Mo 1/17/83 Mo 1/9/84	Mo 6/27/83 Fr 8/8/84	9:39am 4:38pm	9:28pm (6/26) 4:05pm

Sent to you by
**LEGISLATIVE RESEARCH
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LEGISLATIVE SESSIONS SINCE STATEHOOD

Legislature/Session & Number of Days	Day/Date Convened	Day/Date Adjourned	Adjournment Time	
			SENATE	HOUSE
14TH LEGISLATURE: 1985 - 1986 1st Session - 119 days 1st Special Session - 30 days* 2nd Session - 120 days	Mo 1/14/85 Mo 7/15/85 Mo 1/13/86	Su 5/12/85 Tu 8/13/85 Mo 5/12/86	9:42pm . 11:54pm	10:52pm . 11:59pm
* The First Special Session of the Fourteenth Legislature (considering the question of impeachment of Governor Sheffield) adjourned in 30 days under Article II, Section 9, Constitution of the State of Alaska.				
15TH LEGISLATURE: 1987 - 1988 1st Session - 122 days** 1st Special Session - 3 days 2nd Session - 121 days	Mo 1/19/87 Mo 7/1/87 Mo 1/11/88	We 5/20/87 Fr 7/3/87 Tu 5/10/88	11:58pm (5/19) 1:31am 4:12am	1:30am 12:12am 6:04am
** The First Session of the Fifteenth Legislature was extended by a proclamation by the Governor.				
16TH LEGISLATURE: 1989 - 1990 1st Session - 121 days 2nd Session - 122 days 1st Special Session - 14 days	Mo 1/9/89 Mo 1/8/90 Mo 6/25/90	Tu 5/9/89 We 5/9/90 Su 7/8/90	11:59pm 11:59pm (5/8) 5:13pm	11:32pm 12:01am 5:00pm
17TH LEGISLATURE: 1991 - 1992 1st Session - 122 days 2nd Session - 122 days 1st Special Session - 4 days 2nd Special Session - 8 days	Mo 1/21/91 Mo 1/13/92 We 05/13/92 Mo 06/15/92	We 5/22/91 We 5/13/92 Sat 5/16/92 Mon 6/22/92	9:39pm (5/21) 11:59am (5/12) 4:56pm (5/15) 3:44pm	12:37am 12:06am 5:40am 4:17pm
18TH LEGISLATURE: 1993 - 1994 1st Session - 121 days 2nd Session - 121 days 1st Special Session: Senate - 7 days House - 5 days 2nd Special Session - 3 days	Mo 1/11/93 Mo 1/10/94 Tu 5/10/94 Th 5/12/94 Mo 9/26/94	Tu 5/11/93 Tu 5/10/94 Mon 5/16/94 Mon 5/16/94 We 9/28/94	9:02pm unclear 4:36pm 12:35am	9:11pm 11:59pm 6:15pm 12:40am
19TH LEGISLATURE: 1995 - 1996 1st Session - 121 days 2nd Session - 122 days 1st Special Session - 30 days	Mo 1/16/95 Mo 1/8/96 We 5/8/96	Tu 5/16/95 We 5/8/96 Th 6/6/96	10:05pm 12:18am 4:37pm	10:13pm 12:13am 4:51pm
20TH LEGISLATURE: 1997 - 1998 1st Session - 119 days 2nd Session - 122 days 1st Special Session - 7 days 2nd Special Session - 2 days	Mo 1/13/97 Mo 1/12/98 Tu 5/26/98 Mo 7/20/98	Su 5/11/97 We 5/13/98 Mon 6/1/98 Tu 7/21/98	11:04pm 12:09am 1:26pm 9:25pm	11:43pm 12:03am 1:51pm 8:57pm
21ST LEGISLATURE - 1999 - 2000 1st Session - 121 days 1st Special Session - 6 days 2nd Special Session - 9 days 2nd Session - 115 days 3rd Special Session - 3 days	Tu 1/19/99 Th 5/20/99 We 9/22/99 Mo 1/10/00 Th 5/4/00	Tu 5/19/99 Tu 5/25/99 Th 9/30/99 We 5/3/00 Sa 5/6/00	11:56pm 6:06pm 6:55pm 7:11pm 11:47am	11:53pm 6:10pm 6:39pm 7:46pm 11:40am
22ND LEGISLATURE - 2001 - 2002 1st Session - 121 days 1st Special Session - 3 days 2nd Session - 123 days (extended) 2nd Special Session - 5 days 3rd Special Session - 4 days	Mo 1/8/01 Th 6/7/01 Mo 1/14/02 Fr 5/17/02 Mo 6/24/02	Tu 5/8/01 Sa 6/9/01 Th 5/16/02 Tu 5/21/02 Th 6/27/02	11:48pm 10:55am 11:59:59pm*** 5:32pm 12:41am	11:52pm 10:41am 11:58pm 5:08pm 1:42am
*** Under the provisions of art. II, sec. 8 of the Alaska Constitution, the Senate was adjourned sine die at midnight, May 16, 2002.				

NOTE: All Special Sessions were called by the Governor, except the 1st Special Session of the 14th Legislature, and the 1st Special Session of the 17th Legislature, which were called by the Legislature.

LEGISLATURE/SESSION & NUMBER OF DAYS	BILLS INTRODUCED			BILLS BECAME LAW
	HOUSE	SENATE	TOTAL	
1ST LEGISLATURE: 1959 - 1960				
1st Session - 81 days	249	132	381	200
2nd Session - 65 days	<u>225</u>	<u>127</u>	<u>352</u>	<u>187</u>
Total	474	259	733	387
2ND LEGISLATURE: 1961 - 1962				
1st Session - 74 days	285	178	463	147
2nd Session - 81 days	<u>211</u>	<u>120</u>	<u>331</u>	<u>169</u>
Total	496	298	794	316
3RD LEGISLATURE: 1963 - 1964				
1st Session - 76 days	238	191	429	104
2nd Session - 85 days*	230	168	398	119
1st Special Session - 3 days	<u>9</u>	<u>0</u>	<u>9</u>	<u>8</u>
Total	477	359	836	231
*Formal recess, 40 days				
4TH LEGISLATURE: 1965 - 1966				
1st Session - 75 days	289	192	481	117
2nd Session - 84 days	<u>238</u>	<u>149</u>	<u>387</u>	<u>169</u>
Total	527	341	868	286
5TH LEGISLATURE: 1967 - 1968				
1st Session - 77 days	348	203	551	139
1st Special Session - 6 days	17	17	34	31
2nd Session - 86 days	<u>364</u>	<u>209</u>	<u>573</u>	<u>236</u>
Total	729	429	1,158	406
6TH LEGISLATURE: 1969 - 1970				
1st Session - 95 days	411	350	761	120
2nd Session - 147 days	<u>466</u>	<u>252</u>	<u>718</u>	<u>253</u>
Total	877	602	1,479	373
7TH LEGISLATURE: 1971 - 1972				
1st Session - 121 days	470	247	717	134
2nd Session - 161 days	<u>363</u>	<u>189</u>	<u>552</u>	<u>204</u>
Total	833	436	1,269	339
8TH LEGISLATURE: 1973 - 1974				
1st Session - 90 days	424	259	683	91
1st Special Session - 27 days	10	9	19	8
2nd Session - 96 days	438	278	716	147
2nd Special Session - 4 days	<u>9</u>	<u>8</u>	<u>17</u>	<u>9</u>
Total	881	554	1,435	255
9TH LEGISLATURE: 1975 - 1976				
1st Session - 139 days	538	474	1,010	220
2nd Session - 142 days	<u>397</u>	<u>289</u>	<u>686</u>	<u>279</u>
Total	935	761	1,696	499
10TH LEGISLATURE: 1977 - 1978				
1st Session - 141 days	552	370	922	155
2nd Session - 161 days	<u>434</u>	<u>272</u>	<u>706</u>	<u>182</u>
Total	986	642	1,628	337
11TH LEGISLATURE: 1979 - 1980				
1st Session - 112 days	503	289	792	87
1st Special Session - 3 days	3	2	5	4
2nd Session - 145 days	533	299	832	176
2nd Special Session - 3 days	<u>0</u>	<u>0</u>	<u>0</u>	<u>3</u>
Total	1,039	590	1,629	270

LEGISLATURE/SESSION & NUMBER OF DAYS	BILLS INTRODUCED			BILLS BECAME LAW
	HOUSE	SENATE	TOTAL	
12TH LEGISLATURE: 1981 - 1982				
1st Session - 165 days	620	606	1,226	120
1st Special Session - 3 days	0	1	1	0
2nd Session - 144 days	<u>274</u>	<u>292</u>	<u>566</u>	<u>144</u>
Total	894	899	1,793	264
13TH LEGISLATURE: 1983 - 1984				
1st Session - 162 days	449	318	767	109
2nd Session - 152 days	<u>273</u>	<u>236</u>	<u>509</u>	<u>171</u>
Total	722	554	1,276	280
14TH LEGISLATURE: 1985 - 1986				
1st Session - 119 days	448	322	770	105
1st Special Session - 30 days	0	0	0	0
2nd Session - 120 days	<u>262</u>	<u>167</u>	<u>429</u>	<u>146</u>
Total	710	489	1,199	251
15TH LEGISLATURE: 1987 - 1988				
1st Session - 122 days	327	310	637	96
1st Special Session - 3 days	2	2	4	5
2nd Session - 121 days	<u>238</u>	<u>208</u>	<u>446</u>	<u>173</u>
Total	567	520	1,087	274
16TH LEGISLATURE: 1989 - 1990				
1st Session - 121 days	360	331	691	117
2nd Session - 122 days	230	221	459	211
1st Special Session - 14 days	<u>5</u>	<u>4</u>	<u>9</u>	<u>1</u>
Total	603	556	1,159	329
17TH LEGISLATURE: 1991 - 1992				
1st Session - 122 days	356	313	669	96
2nd Session - 122 days	236	164	400	137
1st Special Session - 4 days	6	6	12	5
2nd Special Session - 8 days	<u>4</u>	<u>2</u>	<u>6</u>	<u>1</u>
Total	602	485	1,087	239
18TH LEGISLATURE: 1993 - 1994				
1st Session - 121 days	304	218	522	83
2nd Session - 121 days	244	163	407	131
1st Special session (7 days Senate, 5 days House)	0	0	0	8
2nd Special session - 3 days	<u>2</u>	<u>2</u>	<u>4</u>	<u>2</u>
Total	550	383	933	224
19TH LEGISLATURE: 1995 - 1996				
1st Session - 121 days	352	187	539	105
2nd Session - 122 days	202	140	342	146
1st Special Session - 30 days	<u>10</u>	<u>12</u>	<u>22</u>	<u>6</u>
Total	564	339	903	257
20TH LEGISLATURE: 1997 - 1998				
1st Session - 119 days	289	206	495	113
2nd Session - 122 days	202	154	356	142
1st Special Session - 7 days	1	2	3	1
2nd Special Session - 2 days	<u>1</u>	<u>1</u>	<u>2</u>	<u>0</u>
Total	493	363	856	256

LEGISLATURE/SESSION & NUMBER OF DAYS	BILLS INTRODUCED			BILLS BECAME LAW
	HOUSE	SENATE	TOTAL	
21ST LEGISLATURE: 1999 - 2000				
1st Session - 121 days	253	185	438	94
1st Special Session - 6 days	1	1	2	2
2nd Special Session - 9 days	0	0	0	2
2nd Session - 115 days	195	129	324	136
3rd Special Session - 3 days	<u>2</u>	<u>2</u>	<u>4</u>	<u>2</u>
Total	451	317	768	236
22ND LEGISLATURE: 2001 - 2002				
1st Session - 121 days	278	229	505	103
1st Special Session - 3 days	0	0	0	1
2nd Session - 123 days	256	143	399	143
2nd Special Session - 5 days	8	12	20	5
3rd Special Session - 4 days	<u>2</u>	<u>2</u>	<u>4</u>	<u>2</u>
Total	542	386	928	254

**Legislation Passed by Both Houses
1979 - 1992**

Legislature	Senate Bills	House Bills	Total Bills	Senate Resolutions	House Resolutions	Total Resolutions
11th						
1979	54	62	116	18	15	33
1980	95	104	199	20	29	49
Total	149	166	315	38	44	82
12th						
1981	75	58	133	26	20	46
1982	92	69	161	10	10	20
Total	167	127	294	36	30	66
13th						
1983	54	59	113	11	18	29
1984	90	92	182	17	24	41
Total	144	151	295	28	42	70
14th						
1985	48	59	107	8	17	25
1986	64	90	154	19	15	34
Total	112	149	261	27	32	59
15th						
1987	47	57	104	18	22	40
1988	94	38	132	36	33	69
Total	141	145	286	54	55	109
16th						
1989	60	59	119	42	31	73
1990	103	112	215	38	45	83
Total	163	171	334	80	76	156
17th						
1991	52	54	106	27	34	61
1992	74	75	149	21	29	50
Total	126	129	255	48	63	111

Source: Final Status of Bills and Resolutions, Statistical Summary, Legislative Affairs Agency.
Statistics used: House Bills and Resolutions -- Number that passed the Senate.
Senate Bills and Resolutions -- Number that passed the House.

Prepared by the Legislative Research Agency, August 1992.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box V, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

January 14, 1988

MEMORANDUM

TO: Representative Johnny Ellis

FROM: Sandi Depue *AMD*
Administrative Officer

RE: Number of Bills Passed By the Alaska Legislature During the Last
Two Weeks of Session: 1985-1987
Research Request 88.113

You requested that this agency determine how many bills were passed by the House of Representatives, Senate and both houses, on a daily basis, during the last two weeks of legislative sessions. You requested this information for the past three years.

Attached are bar graphs for 1985, 1986 and 1987 which show the number of bills passed by the House of Representatives, the Senate and both houses.¹ The bar delineating passage of a bill by both houses corresponds to the date a bill (passed by both houses during the final 14 days) passed the nonoriginating house, i.e., the date a House Bill passed the Senate and vice versa. A table showing the same information is also attached.

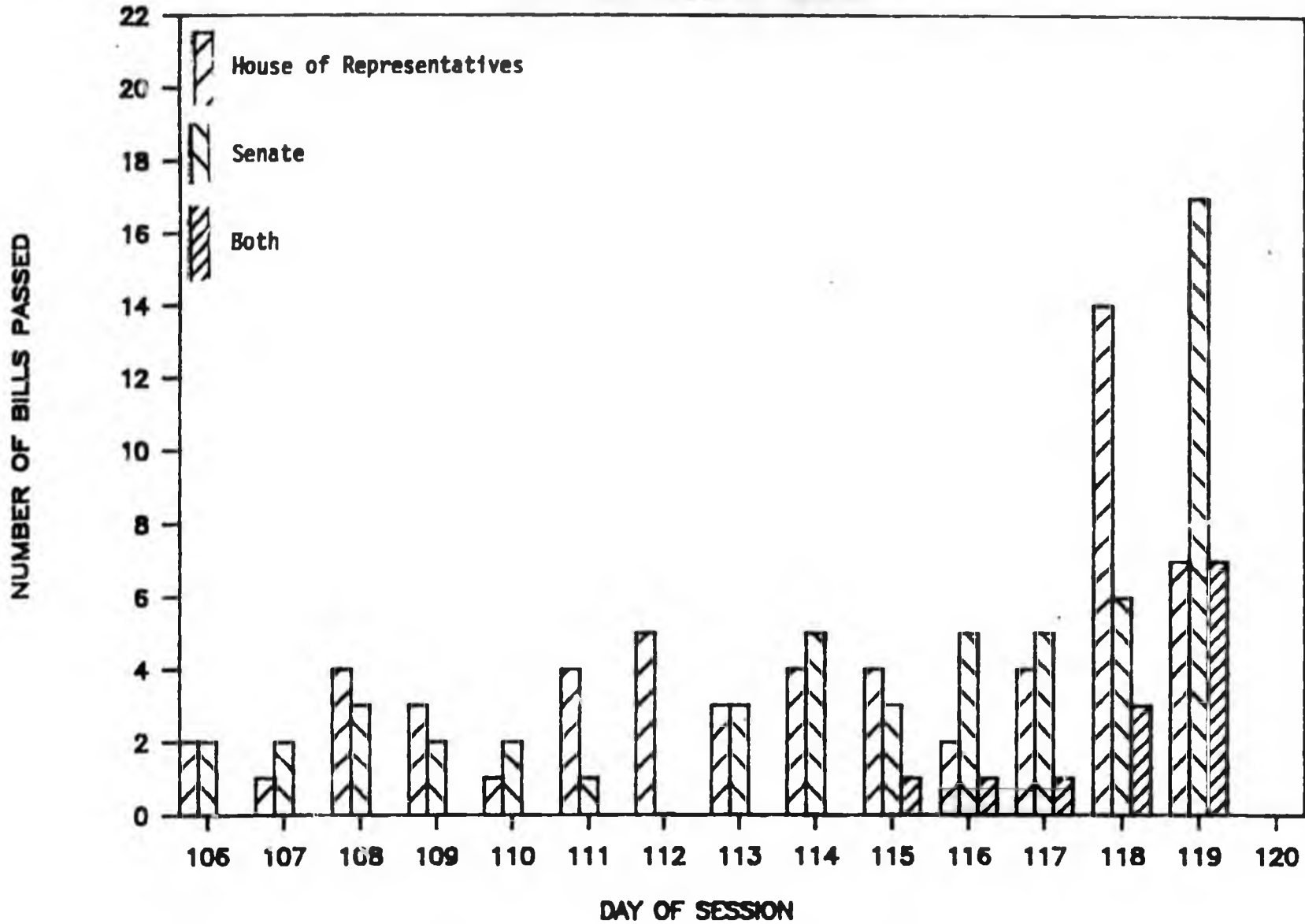
If you have any questions or need further information, please let me know.

Attachments

¹The 1987 Legislature was in session two days which were both considered the 120th day. Both of these days are included on our graphs and in our table as the 120th day.

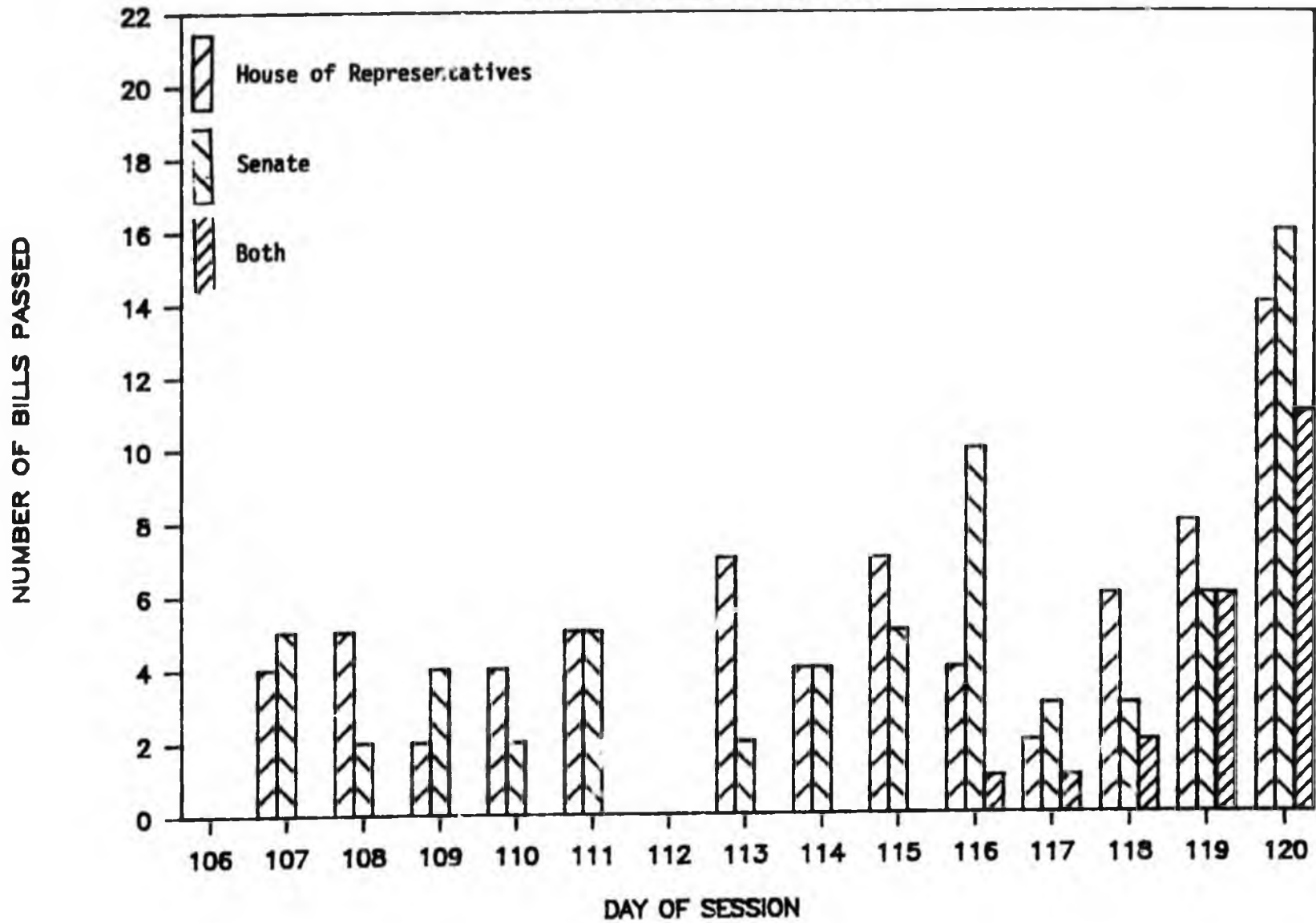
BILLS PASSED BY LEGISLATURE — 1985

LAST TWO WEEKS OF SESSION



BILLS PASSED BY LEGISLATURE — 1987

LAST TWO WEEKS OF SESSION





**ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY**

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-2991

January 22, 1988

MEMORANDUM

TO: Representative Johnny Ellis

ATTN: Jim Nordlund

FROM: Sandi Depue *LD*
Administrative Officer

**RE: Number of Bills Passed By the Alaska Legislature During the Last
Two Weeks of Session: 1985-1987
Research Request 88.113 (Supplemental Information)**

You asked our agency to determine the total number of bills and resolutions which passed the House of Representatives, the Senate, and both houses during the 1985, 1986 and 1987 legislative sessions. You also asked how many bills and resolutions passed each house, and both houses, during each of the last 14 days of the sessions.

The attached tables provide this information and include the number of bills and resolutions passed by each house detailed by House Bills, Senate Bills, House Resolutions, and Senate Resolutions. The tables also provide daily percentages and a cumulative 14 day percentage of total bills passed in each category.

House Research Agency memorandum 87.003 concerning scheduling of bills is also attached.

I hope you find this information useful.

Attachments

Table 1
Number of Bills and Resolutions Passed During Legislative Session
Fourteenth Alaska Legislature - 1st Session - 1965

	HOUSE NUMBER OF BILLS PASSED				SENATE NUMBER OF BILLS PASSED				BOTH NUMBER OF BILLS PASSED			
	HB	SB	HR	SR	HB	SB	HR	SR	HB	SB	HR	SR
Session Total	110	48	38	8	59	33	17	20	59	48	17	8
Day 106	2	0	1	0	0	2	0	0	0	0	1	0
Day 107	1	0	0	0	0	2	0	1	0	0	0	0
Day 108	2	2	2	0	1	2	0	0	0	0	0	0
Day 109	3	0	0	0	1	1	0	0	0	0	0	0
Day 110	1	0	0	1	0	2	1	0	0	0	0	0
Day 111	4	0	0	0	0	1	0	2	0	0	0	0
Day 112	5	0	0	0	0	0	0	0	0	0	0	0
Day 113	2	1	0	0	0	3	0	0	0	0	0	0
Day 114	4	0	0	0	2	3	1	1	0	0	1	0
Day 115	3	1	2	0	0	3	6	2	0	1	0	0
Day 116	1	1	2	0	1	4	0	0	0	1	0	0
Day 117	3	1	2	0	4	1	0	1	1	0	0	0
Day 118	10	4	1	0	2	4	0	1	1	2	0	0
Day 119	1	6	0	0	16	1	0	1	4	3	0	0
Day 120	0	0	0	0	0	0	0	0	0	0	0	0
14 Day Totals	42	16	10	1	27	29	2	9	6	7	1	0

Daily Percent of Total

Day 106	1.8	0.0	2.6	0.0	0.0	2.4	0.0	0.0	0.0	0.0	0.0	0.0
Day 107	0.9	0.0	0.0	0.0	0.0	2.4	0.0	5.0	0.0	0.0	0.0	0.0
Day 108	1.8	4.2	5.3	0.0	1.7	2.4	0.0	0.0	0.0	0.0	0.0	0.0
Day 109	2.7	0.0	0.0	0.0	1.7	1.2	0.0	0.0	0.0	0.0	0.0	0.0
Day 110	0.9	0.0	0.0	12.5	0.0	2.4	5.9	0.0	0.0	0.0	0.0	0.0
Day 111	3.6	0.0	0.0	0.0	0.0	1.2	0.0	10.0	0.0	0.0	0.0	0.0
Day 112	4.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Day 113	1.8	2.1	0.0	0.0	0.0	3.6	0.0	0.0	0.0	0.0	0.0	0.0
Day 114	3.6	0.0	0.0	0.0	3.4	3.6	5.9	5.0	0.0	0.0	5.9	0.0
Day 115	2.7	2.1	5.3	0.0	0.0	3.6	0.0	10.0	0.0	2.1	0.0	0.0
Day 116	0.9	2.1	5.3	0.0	1.7	4.8	0.0	0.0	0.0	2.1	0.0	0.0
Day 117	2.7	2.1	5.3	0.0	6.8	1.2	0.0	5.0	1.7	0.0	0.0	0.0
Day 118	9.1	8.3	2.6	0.0	3.4	4.8	0.0	5.0	1.7	4.2	0.0	0.0
Day 119	0.9	12.5	0.0	0.0	27.1	1.2	0.0	5.0	6.8	6.3	0.0	0.0
Day 120	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
14 Day Totals	38.2	33.3	26.7	12.5	45.8	34.9	11.8	45.0	10.2	14.6	5.9	0.0

Note: HB - House Bills
 SB - Senate Bills
 HR - House Resolutions
 SR - Senate Resolutions

Prepared by the House Research Agency, January 1966, (88.11381; 100287-12).

Table 3
Number of Bills and Resolutions Passed During Legislative Session
Fifteenth Alaska Legislature - 1st Session - 1967

	HOUSE				SENATE				BOTH			
	NUMBER OF BILLS PASSED				NUMBER OF BILLS PASSED				NUMBER OF BILLS PASSED			
	HB	SB	HR	SR	HB	SB	HR	SR	HB	SB	HR	SR
Session Total	106	47	41	18	57	106	22	48	57	47	22	18
Day 106	0	0	0	0	0	0	0	0	0	0	0	0
Day 107	4	0	2	0	0	3	0	2	0	0	0	0
Day 108	4	1	2	0	0	2	0	0	0	0	0	0
Day 109	2	0	0	0	0	4	0	1	0	0	0	0
Day 110	3	1	1	0	0	2	1	0	0	0	0	0
Day 111	4	1	1	0	0	3	0	1	0	0	0	0
Day 112	0	0	0	0	0	0	0	0	0	0	0	0
Day 113	7	0	0	0	0	2	1	0	0	0	0	0
Day 114	4	0	0	0	1	3	0	1	0	0	0	0
Day 115	6	1	1	0	1	4	0	0	0	0	0	0
Day 116	3	1	1	0	3	7	0	0	1	0	0	0
Day 117	1	1	0	0	0	3	0	1	0	1	0	0
Day 118	2	4	3	1	2	1	1	2	1	1	0	1
Day 119	1	7	0	0	4	2	0	1	1	5	0	0
Day 120	4	10	2	0	11	5	0	0	8	3	0	0
14 Day Totals	45	27	15	1	72	45	3	9	11	10	0	1

Daily Percent. of Total

Day 106	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Day 107	3.8	0.0	4.9	0.0	0.0	4.7	0.0	4.2	0.0	0.0	0.0	0.0
Day 108	3.8	2.1	4.9	0.0	0.0	1.9	0.0	0.0	0.0	0.0	0.0	0.0
Day 109	1.9	0.0	0.0	0.0	0.0	3.8	0.0	2.1	0.0	0.0	0.0	0.0
Day 110	2.8	2.1	2.4	0.0	0.0	1.9	4.5	0.0	0.0	0.0	0.0	0.0
Day 111	3.8	2.1	2.4	0.0	0.0	4.7	0.0	2.1	0.0	0.0	0.0	0.0
Day 112	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Day 113	6.6	0.0	0.0	0.0	0.0	1.9	4.5	0.0	0.0	0.0	0.0	0.0
Day 114	3.8	0.0	0.0	0.0	1.8	2.8	0.0	2.1	0.0	0.0	0.0	0.0
Day 115	3.7	2.1	2.4	0.0	1.8	3.8	0.0	0.0	0.0	0.0	0.0	0.0
Day 116	2.8	2.1	2.4	0.0	5.3	6.6	0.0	0.0	1.8	0.0	0.0	0.0
Day 117	1.9	2.1	0.0	0.0	0.0	2.8	0.0	2.1	0.0	2.1	0.0	0.0
Day 118	1.9	2.5	7.3	5.6	3.5	0.9	4.5	4.2	1.8	2.1	0.0	5.6
Day 119	0.9	14.9	0.0	0.0	7.0	1.9	0.0	2.1	1.8	10.6	0.0	0.0
Day 120	3.8	21.3	4.9	0.0	19.3	4.7	0.0	0.6	14.0	6.4	0.0	0.0
14 Day Totals	42.5	57.4	31.7	5.6	38.6	42.5	13.6	18.8	19.3	21.3	0.0	5.6

Note: HB - House Bills
 SB - Senate Bills
 HR - House Resolutions
 SR - Senate Resolutions

Prepared by the House Research Agency, January 1968, (88-11383; 100287-12).

Thumbs up to discussion of a shorter legislative session.

The group of freshman and sophomore representatives investigating the measure raise some strong arguments for a more compact session. A number of other states have shorter sessions than Alaska's 121 days.

The Wyoming Legislature meets for not more than 40 days in odd-numbered years in General Session and for approximately 20 days in even numbered years for a Budget Session. South Dakota conducts the state's business in an annual 40-day session. Kentucky for the first time this year injected a 30-day session between its traditional 90-day biennial sessions.

Many Alaska legislators, especially first timers, become frustrated with the slow, unproductive pace of the first half of the session. A shorter session would require a greater sense of urgency and allow for far less posturing and lobbying.

A House State Affairs subcommittee this week considered four proposed constitutional amendments, all of which would reduce the length of the session. Rep. Lisa Murkowski's amendment calls for the state budget to follow a two-year cycle, noting that more long range planning would need to come first.

There are many extenuating factors to examine before deciding on the merits of a shorter session, however, the efficiencies of short sessions are well proven in other states. A shorter session may look pretty good to our state legislators if they are going to be moving into a vacant Wal-Mart building in Wasilla as suggested this week by Mark Chryson, a sponsor of the petition to move the legislature from Juneau to the Matanuska-Susitna Borough near Anchorage.

May 9, 1997

Vo

The Anchorage Times

Publisher: BILL J. ALLEN

"Believing in Alaskans, putting Alaska first"

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

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Too darned long

WITH THE end of the 1997 legislative session in sight, let's suggest again that it's time to make a fundamental change in the way Alaska lawmakers do their business.

We're not talking about the conduct or results of this session. We are not criticizing legislators, individually or collectively.

The change that's needed is in the system itself.

Simply put, the state's annual legislative sessions last too long.

As things now stand, lawmakers meet for four months every year.

For one-third of every year, the principal focus of government is on events happening in the state House and Senate. The workings of the bureaucracy may go on, albeit with some considerable distractions from the Capitol, but the attention of the top administration leaders — the commissioners, their deputies and various department heads — is riveted on what is happening in the Legislature.

Once adjournment is reached, each department of the government spends the next three months dealing with implementation of any new laws that affect their respective operations, and struggling with financial changes caused by budget cuts and changes in line-item appropriations.

And during the final one-third of the year the administration — all the departments, commissioners, deputy commissioners and workers down the line — must concentrate on planning for the next session, preparing new bills for introduction, working on the next budget, and generally gearing up to do battle all over again.

It's a wonder anything gets done.

THERE IS a solution.

By statute or by constitutional amendment, it should be mandated that the Legislature handle the state budget process on a two-year cycle — rather than dealing with appropriations annually.

Every other year, legislators should meet for a short session — 45 days at the maximum — to consider only a biennial budget. No other legislation would be considered, other than that required to address items that are judged to be absolute emergencies.

On the alternate years, the legislators would meet to consider general legislation — no budget work at all. Without the need to deal with budgets and funding, the work of this session would not require lawmakers to be in Juneau for four months of the year.

Maybe, under this scenario, they could get the work done in 60 days. Certainly 90 would be sufficient, under any circumstances.

The grim need for legislators to be in Juneau for a third of the year would be eliminated. And the administration would have much more time to concentrate on the job of running the state.

This is not rocket science. This is not plowing new fields in government. Any number of states now operate, very successfully, in

Sern Bishop, Opinion Page Editor; 459-7574

1 Feb 1997



Daily News - Miner

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WHAT OTHERS SAY

Set a 90-day legislative session

Among the more pertinent pieces of legislation filed this session is a proposed amendment to the state Constitution that would limit the 120-day session to 90 days. If passed, House Joint Resolution No. 1 would require a vote of the people.

It's a worthy concept that keeps surfacing, especially with legislators who live elsewhere, and we think it merits discussion.

Here's why: Every year, Christmas and New Year holidays are very nearly ruined for people preparing to return to Juneau for the session. First, they must wind down their duties and close up their offices before Christmas. Then, they must pack up their belongings and hit the road around the New Year to make it to Juneau in time to settle in for the session.

New legislators must be in Juneau by about Jan. 4 so they can take part in orientations. Some legislators and staff members must catch a ferry. Many arrive in the capital exhausted, having had their family time over the holidays completely disrupted.

This has spawned an annual sense of dread among many involved in the Legislature, a dread that isn't easily dissolved by the friendliness of Juneau. As one staff member put it, they feel as though they are gerbils on a treadmill: "We get here (Juneau) with a bad attitude."

Rep. Norm Rokeberg and Rep. Jerry Sanders are putting their efforts behind the resolution, the very one that died of neglect last session. Rokeberg argues the Legislature could start later, perhaps in February or early March. So much of what the Legislature does must wait until the March budget forecast from the Department of Revenue, so why not wait to get started until some of the real nuts-and-bolts work can be done?

Years ago, the people of Alaska became frustrated with the Legislature when sessions-without-limits dragged on until June or July. Thus, the 120-day limit was passed by voters. We think an even shorter session would be just as responsive, more cost-effective for the people of Alaska, and possibly even more productive. Other states do it.

Although Juneau would feel an economic impact, the perceived need to move the capital to Anchorage or elsewhere would become far less important.

The idea of a shorter session also is in line with the concept of a citizen-statesman government, one that has legislators spending more time in their districts, working in their own professions and being available to listen to their constituents. And that's a capital idea that would benefit the state as a whole.

—Juneau Empire, Jan. 26

LETTERS TO THE EDITOR

The Fairbanks Daily News-Miner reserves the right to edit or reject any letter.

Did Lippo

Strange sequence smells no good

WASHINGTON — In his "errors were made" press conference, President Clinton became flustered when asked by The Washington Post's John Harris if he had found anything "unusual or suspicious" in large payments by the Lippo Group to Clinton's friend Webster Hubbell just after he was forced out of the Justice Department and before he went to jail.

"I didn't know about it," he insisted. "And I can't imagine who could have ever arranged to do something improper like that and no one around here know about it. It's just not — we — we did not know anything about it."

Later in his answer he added "before it happened," because his blanket denial was untrue. His closest confidential aide, Bruce Lindsey, had already told the Senate he was aware of the payments to the disgraced Hubbell by Clinton's Asian friends. But the president now claims that the "improper" arrangement was kept secret from him "till I read about it in the press."

Consider: The financially desperate Hubbell, who could have sunk the Clintons if he turned against them, received a bundle from the same Asian crew bankrolling Clinton campaigns; he

When bala

Sen. Lott wants Social Security, not highway fund, in the formula

By LAWRENCE M. O'ROURKE

WASHINGTON — Trent Lott, the Senate Republican Leader, has a bit of an inconsistency problem with trust funds.

It's a critical inconsistency because it lies at the center of the debate over whether the Constitution should be amended to require an annual balanced federal budget.

Both the Senate and House intend to vote in February. If each chamber approves the amendment by a two-thirds majority, it will be sent to the states. If three-fourths of the states ratify, the balanced budget amendment becomes part of the Constitution.

The resolution of Lott's inconsistency is pivotal because his issues involve two of America's most popular federal programs: Social Security and the building and repair of highway bridges.

JUNEAU EMPIRE

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PAT SMITH
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Shorter session, better government

Among the more pertinent pieces of legislation filed this session is a proposed amendment to the state Constitution that would limit the 120-day session to 90 days. If passed, House Joint Resolution No. 1 would require a vote of the people.

It's a worthy concept that keeps surfacing, especially with legislators who live elsewhere, and we think it merits discussion.

Here's why: Every year, Christmas and New Year holidays are very nearly ruined for people preparing to return to Juneau for the session. First, they must wind down their duties and close up their offices before Christmas. Then, they must pack up their belongings and hit the road around the New Year to make it to Juneau in time to settle in for the session. New legislators must be in Juneau by about Jan. 4 so they can take part in orientations. Some legislators and staff members must catch a ferry. Many of them arrive in the capital exhausted, having had their family time over the holidays completely disrupted.

This has spawned an annual sense of dread among many involved in the Legislature, a dread that isn't easily dissolved by the friendliness of Juneau. As one staff member put it, they feel as though they are gerbils on a treadmill: "We get here (Juneau) with a bad attitude."

Rep. Norm Rokeberg and Rep. Jerry Sanders are putting their efforts behind the resolution, the very one that died of neglect last session. Rokeberg argues the Legislature could start later, perhaps in February or early March. So much of what the Legislature does must wait until the March budget forecast from the Department of Revenue, so why not wait to get started until some of the real nuts-and-bolts work can be done?

Years ago, the people of Alaska became frustrated with the Legislature when sessions without limits dragged on until June or July. Thus, the 120-day limit was passed by voters. We think an even shorter session would be just as responsive, more cost-effective for the people of Alaska, and possibly even more productive. Other states do it.

Although Juneau would feel an economic impact, the perceived need to move the capital to Anchorage or elsewhere would become far less important.

The idea of a shorter session is also in line with the concept of a citizen-statesman government, one that has legislators spending more time in their districts, working in their own professions and being available to listen to their constituents. And that's a capital idea that would benefit the state as a whole.

HB

23

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR CSHB 23() BY: Representative Norman Rokeberg

Title: An Act relating to construction of a legislative hall; and repealing provisions relating to relocating the capital, the legislature or any of the present functions of state government.

Changes in CS indicated in BOLD.

Section 1: Findings

Section 2: Specifications for Legislative Hall. ~~Directs~~ Legislative Council to develop specifications by December 15, 2006 for construction of new legislative hall. Sets forth that specifications must include at least the following space:

- Private office for each legislator and legislator's staff
- Larger private offices for Speaker of House and Senate President
- Chamber for each body with electronic voting boards and other appropriate equipment and galleries to accommodate 150 people in addition to media
- Private lounge for legislators, on same floor as chambers, with cooking facilities
- 18 committee rooms, with space for committee staff, 11 committee members, and at least 75 public members
- Suite of office space for Governor, Lt. Governor, and Commissioners for their use when they visit legislative hall
- One courtroom and adequate offices for judicial officers of the Supreme Court and staff
- One photocopy service room on each floor
- Public lounge and restaurant
- Pooms for security staff, documents, and supplies
- Office space for each agency of legislative branch that Council determines should be located with the legislature
- Office space for Senate Secretary and House Clerk
- Print Shop
- Maintenance Shop

- Media office
- Area adequate for electronic technology and telecommunications equipment and cabling
- Rotunda or atrium for public meetings, celebrations and events
- Facilities for display of Alaska historical exhibits and artifacts
- Documents room
- Press room with space to rent to press groups
- Adequate and efficient restrooms on each floor

Parking must also be addressed and must include at least the following:

- Covered parking for 75 vehicles on site of legislative hall
- Parking for at least 300 vehicles on site or adjacent to hall
- Covered walkways from parking areas to hall
- Parking area for an additional 150 vehicles near hall
- Total parking space must equal or exceed amount in **International Building Code** that is current on the date specifications are completed

Section 3: Proposals for Legislative Hall. May be submitted by boroughs or unified municipalities with a population of at least 30,000.

- Must include details regarding financing of project and terms on which hall will be made available to legislature
- Lease payments by legislature may not be in excess of \$1
- Hall must be completed before June 30, 2009

Proposal evaluation shall also consider:

- Availability of basic utility services
- Adequate airport access
- Adequate road or weekly winter ferry service
- Adequate health, education and social service facilities
- Adequate housing opportunities

Section 4: Selection of a Proposal. Council must select or reject all proposals by June 30, 2007. If proposal selected, Council will enter into contracts, leases, etc. If proposal includes a site wholly or partially on state land, Council shall take all actions to arrange for transfer of land to municipality at no cost. AS 36.30.020 and AS 35.05.010 do not apply to this Act.

Section 5: Repeals the provisions of the Frank Initiative.

Section 6: Transition. The Second Regular Session of 26th Legislature and all thereafter shall convene in the hall. The Revisor shall propose legislation making all changes to statutes necessary to conform to this section.

ALASKA STATE LEGISLATURE
House of Representatives

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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

MEMORANDUM

To: Representative Paul Seaton, Chairman
House State Affairs Committee

cc: House State Affairs Committee

From: Representative Norman Rokeberg

Date: March 21, 2006

Re: HB 23: Construction of a Legislative Hall

A handwritten signature in black ink, appearing to read "Norman Rokeberg".

Attached please find two Legislative Legal opinions on the FRANK initiative and its relationship to HB 23. As you can see from the opinions from Tam Cook, the FRANK initiative must be addressed.

The initiative is so cleverly written, that I believe that the citizens of Juneau have used it to hold the legislature and the Capital hostage. A literal interpretation of the initiative would require a vote of the people even if the capitol building were to be destroyed by fire, in my opinion. However, Ms. Cook opines that relocation within Juneau may not require a vote.

I have also attached for the committee's information a copy of an Attorney General's opinion on "bondable costs." The opinion concludes, "all costs which could legally be covered by a bond issue must be placed on the ballot and approved before money is expended on the move." In other words, the issue must be on two ballots (#1-all bondable costs and #2-the bonds themselves) and includes such items as all private housing, retail, commercial and industrial buildings, utilities, streets, bridges, roads, government buildings, and the Capitol building. The Attorney General stated: \$1.441 billion (in 1978 dollars) might be insufficient for the capital relocation to proceed.

I look forward to another bill hearing on HB 23 at your earliest convenience.

LEGAL SERVICES

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Juneau, Alaska 99801-1182
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MEMORANDUM

January 13, 2006

SUBJECT: Construction of a legislative hall (CSHB 23(); F version)

TO: Representative Norman Rokeberg
Chair of House Rules Committee
Attn: Heather Nobrega

FROM: Tamara Brandt Cook
Director *TBC*

The draft bill referred to above repeals AS 44.06.050 - 44.06.060, the FRANK initiative. You ask about the affect of those sections if a version of HB 23 is enacted without the repeal. Although I am not convinced that the substantive provisions carry out the purpose, the purpose of the FRANK initiative as stated in AS 44.06.050 suggests that those provisions would apply to construction of a legislative hall under HB 23:

Sec. 44.06.050. Purpose of AS 44.06.050 - 44.06.060. The purpose of AS 44.06.050 - 44.06.060 is to guarantee to the people their right to know and to approve in advance all costs of relocating the capital or the legislature; to insure that the people will have an opportunity to make an informed and objective decision on relocating the capital or the legislature with all pertinent data concerning the costs to the state; and to insure that the costs of relocating the capital or the legislature will not be incurred by the state without the approval of the electorate.

Under AS 44.06.060 the legislature is required to establish a commission, appointed by the governor and confirmed by the legislature, "to determine costs required by initiatives or legislative enactments authorizing relocation of any of the present functions of state government." Aside from the fact that the provision appears to be overly broad, note that the commission would not be required to be established until after enactment of HB 23. (Alaskans for Efficient Government v. Knowles, 91 P.3d 273 (Alaska 2004)) A commission has never been established.

The commission is required under AS 44.06.055 to "determine all bondable costs and total costs including, but not limited to, the costs of moving personnel and offices to the relocation site; the social, economic, and environmental costs to the present and relocation sites; and the costs to the state of planning, building, furnishing, using and financing facilities at least equal to those provided by the present capital city." However, much of this effort would, apparently, be for information purposes only. The only substantive direction is that state money not be spent to relocate the capital or the

Representative Norman Rokeberg

January 13, 2006

Page 2

legislature until "after a majority of those voting in a statewide election have approved a bond issued that includes all bondable costs to the state of the relocation of a functional state legislature or capital to the new site over the twelve-year period following such approval." To the extent that it is contemplated that general obligation bonds would provide the funding as has been the case in past capital relocation efforts, a vote of the people is required in any case under Art. IX, sec. 8 of the state constitution and use of the bond money is limited to "capital improvements." How the legislative hall would be financed and to what extent, if any, state money would be used is left open in HB 23, except that lease-financing is foreclosed as any lease payment may not exceed \$1 a year. The financing issue is to be resolved as part of the proposal process.

The foregoing demonstrates that it will be far from clear how the FRANK initiative provisions will apply if HB 23 is enacted and those provisions are not repealed.

It is also possible that key provisions of the FRANK initiative would be found to be unconstitutional, and, therefore inapplicable, should the enactment of HB 23 result in legal challenge, which would almost certainly be the case. For example, it can be urged that the constitutional power of appropriation cannot be restrained as is done under the initiative, that the legislature cannot be forced to establish the commission because it cannot be forced to enact law, and that the expenditure of state money cannot be made subject to voter approval except as constitutionally required with respect to acquisition of state debt under Art. IX, sec. 8.

In the alternative, a court faced with the problem of applying the FRANK initiative after HB 23 is enacted might conclude that HB 23 itself suspends application of provisions of the initiated law by implication.

It short the situation will be legally confused and messy should HB 23 be enacted without addressing in some way the FRANK initiative. The three alternatives I can think of are:

- (1) include an exemption in HB 23 from application of the provisions of the FRANK initiative;
- (2) amend the FRANK initiative in some way to make its application clear and to remove potential constitutional issues; or
- (3) repeal the FRANK initiative.

By way of observation, the common definition of "capital" is the location where the legislature meets. While HB 23 is designed to move the legislature, not the capital, if the legislature moves it is hard to imagine in what sense Juneau would still be the capital under AS 44.06.010. The Supreme Court in construing Art. XV, sec. 20 of the state constitution has already determined that the location of the state capital is subject to change by law enacted by the legislature or through initiative. (Starr v. Hagglund, 374 P.2d 316 (Alaska 1962)) None of the alternatives for dealing with the FRANK initiative I mention will prevent enactment of a new initiative.

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MEMORANDUM

January 25, 2006

SUBJECT: Construction of a legislative hall (CSHB 23(); F version)

TO: Representative Norman Rokeberg
Chair of House Rules Committee
Attn: Heather Nobrega

FROM: Tamara Brandt Cook
Director *TBC*

If the capitol building is destroyed or damaged by fire or a natural disaster, would the people of Alaska have to vote before we could rebuild the capitol building? Do they have to vote before we could even set up a temporary location?

Your question has to do with whether the FRANK initiative applies to a situation involving a move from the capitol location to another location in the capital city. The initiative language is ambiguous on that point. AS 44.06.050 and AS 44.06.055 speak in terms of the relocation of the legislature without specifically limiting the application of those provisions to the relocation of the legislature to a place outside of the capital city. Thus, taken literally, the language would apply to the relocation of the legislature from the current capitol building to another place within the capital city as well as to the relocation of the legislature to a place outside of the capital city. *[*]*

However, both of those sections also address the relocation of the capital itself, which, of course, can only involve a change from Juneau to another place outside of Juneau. Therefore, in context, I think it likely that a court would decide that the FRANK initiative does not apply to a relocation of the legislature from one place to another within the capital city. This result is especially likely if, as a factual matter, the capitol building is damaged and becomes unavailable. The court has considered the application of the FRANK initiative in only one case, and the issue of its applicability to relocations within the capital city itself did not come up. (Alaskans for Efficient Government, Inc. v. Knowles, 91 P.3d 273 (Alaska 2004))

TBC:med
06-072.med

6 of 6 DOCUMENTS

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF ALASKA

[NO NUMBER IN ORIGINAL]

1978 Alas. AG LEXIS 527; 1978 Op. Atty Gen. Alas. No. 9

February 16, 1978

TYPE: FORMAL OPINION

SYLLABUS:

[*1]

Re: Capital Move Initiative Petition

REQUESTBY:

The Honorable Hugh Malone
Speaker of the House
The Honorable John Rader
President of the senate
Tenth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

OPINIONBY:

Avrum M. Gross, Attorney General

OPINION:

You have asked that we review the initiative petition entitled, "An Act Relating to the Relocation of the Capital of Alaska," and advise you as to any legal issues which might affect present legislative action on the subject. You have also asked specifically for our opinion on the status of a bond issue for capital move costs placed on the status of a bond issue for capital move costs placed on the ballot this year and approved by the voters if the amount of that authorization is less than all bondable costs of the capital relocation through the year 1992. That question has pertinence since the initiative, if adopted, would require that "all bondable costs" of the move through 1992 be placed on the ballot and approved before any state money is expended to relocate capital facilities.

The language of the initiative provides in part:

Section 2. CAPITAL RELOCATION EXPENDITURES. State money may be expended to relocate physically the present functions of [*2] the state government, including but not limited to, the legislature, the governor's office and all offices of the heads of the principal departments from their present location only after a majority of those voting in a statewide election have approved a bond issue which includes all bondable costs of the relocation to the State through the year 1992, as determined by a commission created by the legislature to plan the relocation. In determining the bondable costs to the State the commission shall also determine the total costs to the State. Those costs shall include, but not be limited to, the costs of moving personnel and offices to the relocation site; the social, economic and environmental costs to the present and relocation sites; and, the cost to the State of planning, building, furnishing, using and financing a new capital city having facilities equal to those provided by the present capital city and those required by the 1974 Capital Move Initiative. (emphasis supplied)

The threshold question is the meaning of the requirement that all "bondable costs" be approved by the electorate before any money is spent to physically relocate the capital. The phrase "bondable costs" [*3] is not defined in the initiative except as it is qualified by the phrase "as determined by a commission created by the legislature to plan the

relocation." The inquiry, then, must focus on the meaning of the phrase "bondable costs" and, as a related matter, the role of the commission in determining those costs.

n1 While the initiative does not specifically refer to the present Capital Site Planning Commission, that body is "a commission created by the legislature to plan the relocation" and could perform whatever administrative functions are required by the initiative.

It is our view that the term "bondable" has an established meaning in law; that pursuant to the established definition, all costs which could legally be covered by a bond issue must be placed on the ballot and approved before money is expended on the move; and that the commission's role in the process is basically one of assigning costs to those items which under law are "bondable." Assuming passage of the initiative, the commission of the legislature would not have authority to determine what portion of a total amount of possible bondable items should be placed before the voters, but instead would be obligated [*4] to establish and place before the electorate all bondable costs, regardless of what method is ultimately used to finance the move. It is also our opinion that if less than the full amount of "bondable costs" were placed upon the ballot and approved and the initiative was approved at the same time, the proceeds from the sale of bonds could not be expended to relocate the capital until the total of the bondable costs of the move were approved by the voters in a subsequent election.

I. The Meaning of the Term "Bondable Costs."

The natural point of commencement in determining the meaning of "bondable costs" is the dictionary. The word "bondable" is composed of the word "bond" and the suffix "-able." Webster's Third New International Dictionary defines the suffix "-able" as "capable or worthy of being acted upon." The term "bondable," then, is properly defined as "capable of being bonded." That, in turn, focuses the inquiry on what costs under law are "capable of being bonded." n2

n2 There are, of course, two types of bonds; revenue bonds or general obligation bonds. The latter involve the credit of the state, may only be issued for specified purposes and require voter approval. Alas. Constitution, Art. IX, § 8. Revenue bonds may be issued for any purpose and do not require voter approval. Art. IX, § 11. Since revenue bonds could be issued to finance the total costs of the capital move, and since the initiative clearly refers to "bondable costs" as an item distinguishable from the "total costs" of the move, it appears obvious that the "bondable costs" referred to in the initiative are costs which may be funded with the proceeds of general obligation bonds. This conclusion is reinforced by the fact that the initiative requires voter approval of "bondable costs," a requirement which is normal for general obligation bonds but nonexistent for revenue bonds. The focus of this opinion, then, will be to define those costs for which general obligation bonds may be issued.

The Alaska Supreme Court has analyzed this issue in some depth in *City of Juneau v. Hixson*, 373 P. 2d 743 (Alas. 1962). Much of our analysis here is derived from that opinion. Hixson analyzed the constitutional authorization for municipalities to issue general obligation bonds, but it is clear from the opinion that a similar analysis is applicable to the issuance of bonds by the state. n3

[*5]

n3 Article IX, Section 8, of the Alaska Constitution provides that "no state debt shall be contracted unless authorized by law for capital improvements . . ." That language has been described by the Supreme Court in *Hixson* as a "similar restriction" to that which applies to municipalities.

The relevance of *Hixson* is emphasized by the history of those provisions in the Alaska Constitution that refer to state and municipal debt. As originally proposed to the Constitutional Convention, the article on finance and taxation placed legal restrictions on the debts of the state and its political subdivisions in a single section, with the same restrictions applicable to both. 6 MINUTES, ALASKA CONSTITUTIONAL CONVENTION (hereafter, MINUTES) App. V, p. 107 (1956). But the juxtaposition in a single section led to confusion, e.g., would a state law have to be enacted to authorize local bond issues? To avoid this confusion, and for no other reason, the two were placed in separate sections. 4 MINUTES 2420-2433, 2440-2441 (1956). Subsequent changes in style were not changes in substance. 5 MINUTES 3402-3403 (1956). There can, therefore, be no question that the *Hixson* analysis [*6] of what is "bondable" for municipalities also governs the issue of bonds by the state.

In *Hixson*, the court reviewed the history of legal authorizations to incur bonded indebtedness. That review commenced

with a 1936 Act of Congress that authorized municipal corporations in the Alaskan territory to incur bonded indebtedness to "construct, improve, extend, better, repair, reconstruct or acquire public works of a permanent character . . ." "Public works" as used in the act included but was not limited to "streets, bridges, wharves, and harbor facilities, sewers and sewage-disposal plants, municipal buildings, schools, libraries, gymnasias and athletic fields, fire houses, and public utilities." Act of May 28, 1936, ch. 467, 49 Stat. 1388, 48 U.S.C.A. § 44a (1952). This authorization for bonded indebtedness remained in force until the Alaska Constitution was adopted. Section 9 of Article IX of that Constitution prohibited the contracting of debt by any political subdivision except for "capital improvements." Capital improvements were not defined in the Constitution, nor were examples provided. However, soon after the adoption of the Constitution, the Alaska Legislature authorized [*7] the issuance of municipal bonds for "public works and capital improvements." The legislature included as examples the same list contained in the original Congressional act, except that "off-street parking facilities" were added. ch. 167, SLA 1959. Then, in 1960, the legislature amended ch. 167 and authorized municipal corporations to incur bonded indebtedness for "public works or facilities of a permanent character." The same list of examples was included, with the addition of "real property and improvements and facilities thereon for such uses and purposes as are authorized by law." ch. 185, SLA 1960.

In the view of the Alaska Supreme Court, the term "capital improvements" found in the Alaska Constitution was meant to be a "better generic term" for all the kinds of projects for which municipalities were authorized to issue bonds prior to statehood. In the words of the Court,

"We believe 'capital' was used in the sense in which it is associated with assets in the form of real or personal property and that it was intended to connote a degree of permanency. We believe that it includes the 'public works of a permanent character' such as 'streets, bridges, wharves and harbor facilities, [*8] sewers and sewage-disposal plants, municipal buildings, schools, libraries, gymnasias and athletic fields, fire houses, and public utilities' as mentioned in the original act of Congress. It includes 'off-street parking facilities' and 'public works or facilities of a permanent character' as provided in recent acts of the state legislature. We believe that in selecting the term 'capital improvements' the convention had in mind that it was including all the projects just mentioned which had historically been associated with municipal bonding, but under a better generic term — one which did not require illustration by actually listing the type projects that were considered to be included within its meaning and stating that the list itself was not exclusive as was done in the original act of Congress." *Hixson, supra, at 747.*

The phrase "bondable costs," then, has an established legal meaning. The state may finance through bonds capital assets of a permanent character, which at the least will include all public works such as streets, bridges and the other types of permanent improvements mentioned in *Hixson* and the legislation referred to in that opinion.

While much of the [*9] cost for the capital move is for state-owned public works such as the capital complex, a substantial portion of the costs will be for public works which will not be retained in state ownership but rather will be transferred to the new capital city or to a public utility, e.g., streets, waterworks, electrical systems, libraries, municipal office buildings, sewers, and the like. We do not view the subsequent transfer of these facilities from state ownership as removing their cost from the coverage of the term "bondable costs." The practice of using the state's borrowing power to finance the construction of public works to be turned over to local governments is well established in Alaska. Some relatively recent examples include the flood control project at Fairbanks and many of the small boat harbors which were the subject of the court's interest in *Gellert v. State*, 522 P. 2d 1120 (Alas. 1974). No one has even seriously questioned that these projects were subject to bonding by the state. The state finances the construction of local service roads with bonds, e.g., ch. 247, § 2(3), SLA 1976, and the roads are then turned over to local governments under AS 19.30.151. A [*10] similar situation exists in the case of housing for senior citizens, ch. 239, SLA 1976, turned over to municipalities under AS 18.100, and of Fire Fighter Training Centers. Ch. 124, SLA 1976. And, of course, the most recent, multi-million dollar bond issue for schools includes many projects which are municipally owned. ch. 131, SLA 1976. It seems settled that bondability is limited solely by the twin dictates that the debt be incurred for a capital improvement, *City of Juneau v. Hixson, supra*, and for a public purpose. *De Armond v. Alaska State Development Corp.*, 376 P. 2d 717 (Alas. 1962); *Wright v. City of Palmer*, 468 P. 2d 376 (Alas. 1970). Accordingly, the costs of constructing streets, sewers, roads, waterworks, libraries, fire houses, electrical systems, off-street parking, and the like which will be turned over to the new capital city or a public utility are "bondable costs" within the meaning of the initiative.

An additional component of the cost of the capital move is for private facilities such as housing, industrial and commercial facilities, and the like. Under the plan submitted by the Capital Site Planning Commission, these facilities will not be financed [*11] with general obligation bond proceeds, but that fact, as previously noted, does not in

itself control the issue of whether those costs are "bondable." While the practice of using general obligation bonds to finance the costs of capital improvements for ultimate transfer to private persons is not well established, it does have precedent in Alaska. In 1970, for instance, the legislature passed and the governor approved a bond issue in the amount of \$3,000,000 for "remote housing," ch. 180, SLA 1970. Since furnishing decent housing clearly has a public purpose, *Bridges v. ASHA*, 375 P. 2d 696 (Alas. 1962), and it is self-evident that housing would fall into the category of capital improvements, it appears fairly certain that the state could finance the construction of housing in the new capital with general obligation bonds. The cost of such housing, then, is "bondable." And the same analysis would be applicable to the costs of developing commercial, business and industrial facilities. *Wright v. City of Palmer*, 468 P. 2d 326 (Alas. 1970). We do not say that the framers of the initiative sought this result, or that a court would subsequently interpret the initiative in [*12] this broad fashion, but as a matter of literal interpretation even the cost of private facilities may be "bondable."

n4 The Commission has indicated that public funds may be required to directly fund the initial construction of private housing, though it does not suggest that bonds be the source of those monies. Capital Site Planning Commission Report, pp. 79-80.

Since the phrase "all bondable costs" does have an established definition, the question is immediately posed as to what is meant in the initiative when the "commission created by the legislature" is given the authority to "determine" those "bondable costs." There are basically two options. The commission may have the authority to decide what items should be funded by bond issues rather than paid for through other means. Alternatively, the commission may be authorized to perform a different function — that of identifying those items which under law are "bondable" and then using its best judgment in determining the dollar amount of bonds which would be required to pay for those items. In our view, the second option is clearly the proper choice.

The basis for this choice may be first demonstrated by reference to [*13] the wording of the initiative. Suppose the commission were to determine that two billion dollars worth of costs for the new capital city were capable of being bonded, or "bondable," but further were to decide that in its view only one billion of those costs should be bonded and the other billion financed through some other means. If the legislature subsequently placed only the lesser amount before the voters, the electorate would then not be voting on all costs that were "bondable," but only a portion of those costs. If the authors of the initiative had meant to give the commission the type of discretion which would have permitted it to reduce "bondable costs," the initiative could have said so in clear terms. But instead, the initiative uses the phrase "all bondable costs" without limitation, and obligates the commission to determine those costs.

If the commission or the legislature did have the discretion to reduce the total amount of "bondable costs" which were to be placed before the voters, that discretion might well frustrate the clear intent of the initiative. The obvious purpose of this initiative is to place before the voters the maximum debt of the state [*14] that could be created by the move of the capital, and to have that maximum amount authorized by the voters prior to starting forward with the physical move. Once the maximum amount that could be bonded is authorized, it is not necessary that the full amount of bonds be sold — a portion of the move could be otherwise financed — but an authorization for the maximum possible amount of bonded indebtedness must come first.

An alternative interpretation could lead to the very piecemeal financing the initiative is aimed to prevent. Assume, for instance, that the commission determined that two billion dollars of the move costs were "bondable" and further decided that only one billion dollars should be placed on a bond issue, the remaining billion for capital improvements to be financed through development corporation bonds or direct legislative appropriation. Suppose further that the one billion dollars of bonds were authorized by the voters, and then at a later time the development corporation sought to independently raise the other billion dollars, as contemplated by the initial finance plan. Suppose further that the development corporation is unsuccessful in raising the required [*15] amount, or the legislature refuses to agree to a direct appropriation, if that is the route selected. The state would then have spent the first billion dollars of the bond issue, and would have to go again to the voters for the second billion dollars. The result of this process would be that the voters, having approved a billion dollar bond issue under the assumption that it was the full amount of "bondable costs," would then face a half completed city and a second bond issue for another billion dollars, facing then the choice of whether to abandon the project or authorize the second bond issue. This, it appears clear, is exactly what this initiative is meant to prevent. If the capital is to move, this initiative seeks to afford voters the opportunity to decide at the very outset whether they wish to approve the maximum amount of debt that the state could accrue during the project. If they choose to do that, alternate methods may subsequently be used to finance the move, but if those methods are unsuccessful, at least the voters will have initiated the project with full knowledge of the ultimate debt that could be incurred.

It is therefore our conclusion that the function [*16] of the commission is to determine all those costs which could be bondable under Alaskan law. That total amount must be approved by the voters before any money may be spent for the physical relocation of the capital. In reaching that amount, the commission and the legislature when it deals with the commission's recommendations will have reasonable discretion in projecting the amounts required to construct the bondable facilities but not in determining the types of items which are bondable. There will obviously be substantial debate over what amount will be required to build a public facility in, say, 1988, and some group must determine that amount for the purpose of fixing the total bond issue. That is the discretion accorded to the commission and the legislature. They do not, on the other hand, have discretion to decide whether or not a public work to be built in 1988 is bondable. That is a legal question. If it is capable of being funded by a bond issue, it must be included in the bond package. n5

n5 Our interpretation here is based on the legal definition of "bondable" as it can be inferred from cases, bond laws, the Constitutional Convention and custom. To be effective, of course, the initiative must be approved by the electorate, and their understanding of the term "bondable costs" will be of relevance in any future judicial analysis. 2A SUTHERLAND, STATUTES AND STATUTORY CONSTRUCTION § 48.19 (Sands ed. 1973). Many items will go to make up that popular understanding, including the campaign for the initiative, this opinion, and other extrinsic aids that may appear before the election. The words of the initiative, however, will be of major controlling impact, whatever can subsequently be made of voter "understanding." See *Starr v. Hugglund*, 374 P. 2d 316 (Alas. 1962).

[*17]

Having stated that much, it seems appropriate that we at least outline to you those costs estimated by the Capital Site Planning Commission which in our view are "bondable." The magnitude of those costs is obviously subject to debate. At the one extreme, it is arguable that all of the capital costs for the entire project are subject to bonding whether the facilities constructed are ultimately publicly or privately owned. Those capital costs would include not only public works, but money for the construction of public and private housing, office buildings, retail and commercial establishments and similar facilities. The state could construct all these facilities as an initial matter, and if it did, the funds expended would clearly be (1) for capital improvements and (2) for a public purpose. An argument could therefore be made that the dual test of "bondable costs" would have been met, and that all of the total capital costs, public and private, would have to be placed on the bond ballot. Such an interpretation would require a bonding authorization in the approximate amount of 4.027 billion dollars.

The minimum authorization which could conceivably cover "all bondable costs" [*18] would be that required to pay for the construction of all public works and facilities, both those to be permanently owned by the state and those which are later to be turned over to the new municipality. These would be the more traditional "bondable costs" for utilities, roads, schools, state buildings and the like. According to the finance plan presented by the Capital Site Planning Commission, those costs would be in the neighborhood of 1.441 billion dollars.

A third possibility is that a court would ultimately interpret "all bondable costs" to lie somewhere within these two extremes. Housing, as we have mentioned, has in times past been treated as a bondable item in this state. It is possible that courts might ultimately insist that at the least the public housing, and possibly the private housing as well, be included within the bonding authorization.

It is difficult to advise you with any certainty as to a sound legal course if the legislature desires to avoid possible future conflict with the initiative. We can say that if the legislature were to put an authorization for 4.027 billion dollars on the ballot and it were subsequently adopted along with the initiative, no conceivable [*19] conflict could arise. We can also say that if the legislature places an authorization of less than 1.441 billion dollars on the ballot and the initiative is contemporaneously passed, the full amount of "bondable costs" will not have been authorized and the capital move will not be able to proceed. Between those two extremes there is real doubt. Our best opinion is that courts would probably not require an authorization beyond the 1.441 billion since, even though such costs might be legally "bondable" under the broadest interpretation of law, they are not traditionally bonded. As a general matter, bonds are used to finance public works, and in Alaska there appear to have been only very limited instances of bonding for facilities ultimately to be placed in private hands. Since statutes (enacted by initiative or otherwise) are interpreted according to the commonly understood meaning of their terms n6, we assume courts will look to the traditional use of the bonding power in analyzing this initiative. We stress, though, that the question is not free from doubt.

n6 See 2A SUTHERLAND, STATUTES AND STATUTORY CONSTRUCTION § 47.28 and cases cited

(Sands ed. 1973).

II. The Effect [*20] of Passage of the Initiative at the Same Time as a Bond Issue for Less Than the Full Amount of Bondable Costs.

You have asked what will occur if less than the full bondable costs are placed before the voters at the same time as the initiative and both are adopted. In such an event, there would be in effect (1) an authorization to sell bonds to finance a portion of the bondable costs for the project and (2) a legal requirement that no money be spent for the physical move until all of the bondable costs are approved in a subsequent bond issue.

When two statutes dealing with the same subject are enacted together, general rules of statutory interpretation require that insofar as possible they be read in harmony. 2A SUTHERLAND, STATUTES AND STATUTORY CONSTRUCTION ch. 51 (Sands ed. 1973). In this situation, harmonizing the two provisions means that both must be given legal effect. That can easily be done.

There is nothing truly inconsistent about passage of the initiative and passage of a bond authorization for less than the full costs of the move, anymore than if the legislature had passed any program authorization containing a provision that the program not be initiated [*21] until funding was complete, and then had failed to pass the full funding. n7 If the initiative and the incomplete bond authorization pass at the same time, there will have to be a second bond election at the legislature's discretion to approve the remainder of the "bondable costs." At such time as the election is held and the authorization completed, the capital move may proceed, but not before.

n7 There are, of course, numerous instances of the legislature authorizing programs and then failing to provide the funding to carry out the program until a later date. In such cases, as here, the authorizing legislation remains in effect but may only be implemented after subsequent funding.

We trust this opinion has been directed toward your major concerns over the initiative. If you have further questions, please do not hesitate to raise them and we will be happy to discuss them with you.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

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LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
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SECTIONAL ANALYSIS FOR CSHB 23()

BY: Representative Norman Rokeberg

Title: An Act relating to construction of a legislative hall; and repealing provisions relating to relocating the capital, the legislature or any of the present functions of state government.

Changes in CS indicated in **BOLD**.

Section 1: Findings

Section 2: Specifications for Legislative Hall. Directs Legislative Council to develop specifications by December 15, 2006 for construction of new legislative hall. Sets forth that specifications must include at least the following space:

- Private office for each legislator and legislator's staff
- Larger private offices for Speaker of House and Senate President
- Chamber for each body with electronic voting boards and other appropriate equipment and galleries to accommodate 150 people in addition to media
- Private lounge for legislators, on same floor as chambers, with cooking facilities
- 18 committee rooms, with space for committee staff, 11 committee members, and at least 75 public members
- Suite of office space for Governor, Lt. Governor, and Commissioners for their use when they visit legislative hall
- One courtroom and adequate offices for judicial officers of the Supreme Court and staff
- One photocopy service room on each floor
- Public lounge and restaurant
- Rooms for security staff, documents, and supplies
- Office space for each agency of legislative branch that Council determines should be located with the legislature
- Office space for Senate Secretary and House Clerk
- Print Shop
- Maintenance Shop

- Media office
- Area adequate for electronic technology and telecommunications equipment and cabling
- Rotunda or atrium for public meetings, celebrations and events
- Facilities for display of Alaska historical exhibits and artifacts
- Documents room
- Press room with space to rent to press groups
- Adequate and efficient restrooms on each floor

Parking must also be addressed and must include at least the following:

- Covered parking for 75 vehicles on site of legislative hall
- Parking for at least 300 vehicles on site or adjacent to hall
- Covered walkways from parking areas to hall
- Parking area for an additional 150 vehicles near hall
- Total parking space must equal or exceed amount in **International Building Code** that is current on the date specifications are completed

Section 3: Proposals for Legislative Hall. May be submitted by boroughs or unified municipalities with a population of at least 30,000.

- Must include details regarding financing of project and terms on which hall will be made available to legislature
- Lease payments by legislature may not be in excess of \$1
- Hall must be completed before June 30, 2009

Proposal evaluation shall also consider:

- Availability of basic utility services
- Adequate airport access
- Adequate road or weekly winter ferry service
- Adequate health, education and social service facilities
- Adequate housing opportunities

Section 4: Selection of a Proposal. Council must select or reject all proposals by June 30, 2007. If proposal selected, Council will enter into contracts, leases, etc. If proposal includes a site wholly or partially on state land, Council shall take all actions to arrange for transfer of land to municipality at no cost. AS 36.30.020 and AS 35.05.010 do not apply to this Act.

Section 5: Repeals the provisions of the Frank Initiative.

Section 6: Transition. The **Second** Regular Session of 26th Legislature and all thereafter shall convene in the hall. The Revisor shall propose legislation making all changes to statutes necessary to conform to this section.

CS FOR HOUSE BILL NO. 23()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Referred:

Sponsor(s): REPRESENTATIVE ROKEBERG

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to construction of a legislative hall; and repealing provisions relating to**
2 **relocating the capital, the legislature, or any of the present functions of state**
3 **government."**

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

5 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **FINDINGS.** (a) The legislature finds that ground was broken for the capitol building
8 by Governor George A. Parks on September 18, 1929, and the building was completed in
9 1931. The capitol building currently houses offices of the governor, the lieutenant governor,
10 and the legislature.

11 (b) The legislature finds that over the years the capitol building maintenance staff has
12 provided valiant efforts to bring the building into the 21st century and accommodate emerging
13 technology, but that there is only so much that can be done to address major problems. In
14 1998, the fire chief for the capital city inspected the building and prepared a report identifying

1 problems. Some of the items were minor and were addressed, but major problems with the
2 corridors cannot be solved. Corridors need to be unobstructed, but, because office space is
3 limited, the corridors are filled with chairs, benches, and other furniture, as well as photocopy
4 machines. A fire protection corridor that allows safe exiting of occupants, free from smoke, is
5 now a fundamental life safety requirement for office buildings that the capitol building cannot
6 meet. While an automatic sprinkler system and new door system are mitigating measures,
7 these would not correct the path of travel because of structural deficiencies.

8 (c) The legislature finds that the following items are also of concern:

9 (1) corridor length; there are many corridors that are long "shotgun" type
10 corridors that do not meet the current fire and safety building codes;

11 (2) space; the space in most offices does not meet the minimum requirements
12 for the number of occupants, and most existing office configurations are inefficient;

13 (3) access; the building has many rooms that do not meet the requirements for
14 ingress and egress under 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act of 1990),
15 thereby possibly endangering the health, life, and safety of employees working in the building
16 and visitors to the building;

17 (4) lack of amenities; there is inadequate parking for the building, no public
18 lounge or food service facilities, and limited space for shared equipment, such as copy
19 machines;

20 (5) chamber space; both chambers and the public galleries are too small;

21 (6) committee space; committee rooms are too small to accommodate
22 members of the legislature and the public who wish to attend meetings;

23 (7) electrical and telecommunication services; the wiring is inadequate;

24 (8) heating and ventilating; the heating system is antiquated, and there is no air
25 conditioning or proper ventilating system in the building since opening windows does not
26 always provide cross circulation.

27 (d) The legislature finds that the capitol building has outlived its usefulness as a
28 legislative hall.

29 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 SPECIFICATIONS FOR A LEGISLATIVE HALL. (a) The Alaska Legislative

1 Council shall develop specifications for construction of a new legislative hall and make those
2 specifications available to legislators and members of the public by December 15, 2006. The
3 specifications must include a method under which the aesthetic appeal of the building will be
4 considered. The legislative hall must meet all fire and building codes, including requirements
5 of 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act of 1990), and meet the highest
6 construction and geotechnical engineering standards. The building must contain adequate
7 heating, ventilating, and air conditioning systems, with individual controls for each system.
8 The building must be configured so that office walls are not load bearing. All office rooms
9 must be wired for computer service, telephone service, fax machines, copy machines, cable
10 television, and security cameras. Capacity for additional wiring in the entire building must be
11 provided for. The specifications must provide for at least the following space:

12 (1) a private office for each legislator and that legislator's staff, with the
13 offices for the Speaker of the House of Representatives and the President of the Senate to be
14 larger than other legislators' offices;

15 (2) a chamber room for each body of the legislature, each with electronic
16 voting boards and other appropriate equipment and with galleries that accommodate at least
17 150 people in addition to the media;

18 (3) a private lounge for legislators located on the same floor as the chambers,
19 with cooking facilities;

20 (4) 18 committee rooms, each with space for committee staff, 11 committee
21 members, and at least 75 members of the public;

22 (5) a suite of office space for use by the governor, the lieutenant governor, and
23 commissioners or other executive branch staff when they visit the legislative hall;

24 (6) one courtroom and adequate offices for judicial officers of the supreme
25 court and staff;

26 (7) at least one photocopy services room on each floor large enough for at
27 least one photocopier, photocopy and other supplies, and user;

28 (8) a public lounge and restaurant;

29 (9) rooms for security staff, documents, and supplies;

30 (10) office space for each agency of the legislative branch that the legislative
31 council determines should be located with the legislature;

1 (11) office space for the senate secretary and the chief clerk of the house of
2 representatives;

3 (12) a print shop;

4 (13) a maintenance shop;

5 (14) a media office;

6 (15) an area adequate for electronic technology and telecommunications
7 equipment and cabling;

8 (16) a rotunda or atrium of sufficient size for public meetings, celebrations,
9 and events;

10 (17) facilities for the display of Alaska historical exhibits and artifacts;

11 (18) a documents room;

12 (19) a press room with space to rent to press groups;

13 (20) adequate and efficient restrooms on each floor that exceed current code
14 requirements.

15 (b) The specifications prepared by the legislative council must address parking and
16 must include at least the following:

17 (1) covered parking for at least 75 vehicles on the site of the legislative hall;

18 (2) parking for at least 300 vehicles on the site of the legislative hall or
19 adjacent to the site;

20 (3) covered walkways from the parking areas required under (1) and (2) of this
21 subsection to the legislative hall; and

22 (4) parking areas for an additional 150 vehicles near the site of the legislative
23 hall.

24 (c) Total parking provided for under (b)(2) and (4) of this section must equal or
25 exceed the amount specified in the edition of the International Building Code that is current
26 on the date specifications are completed.

27 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 PROPOSALS FOR THE LEGISLATIVE HALL. Upon completion of the
30 specifications, the Alaska Legislative Council shall solicit proposals for construction of the
31 legislative hall to be operated, maintained, repaired, and managed by the legislative council

1 for use by the legislature as the location for regular and special sessions and for interim work.
2 Proposals may be submitted by boroughs or unified municipalities with at least 30,000
3 residents. Proposals must include details regarding the financing of the project and terms on
4 which the project site and completed legislative hall will be made available to the legislature.
5 A proposal may not require lease payments by the legislature in excess of \$1 a year or provide
6 for a project completion date that is later than June 30, 2009. In evaluating each proposal, the
7 legislative council shall consider whether the proposed site

8 (1) has basic utility services;

9 (2) has adequate airport access;

10 (3) has adequate road access or at least weekly ferry service during winter
11 months;

12 (4) is in an area with adequate health, education, and social services facilities
13 and adequate housing opportunities.

14 . 4. The uncodified law of the State of Alaska is amended by adding a new section to

15 read:

16 SELECTION OF A PROPOSAL. The Alaska Legislative Council shall review all
17 proposals, conduct inspection, and select a proposal or reject all proposals by June 30, 2007.
18 If a proposal is selected, the legislative council shall enter into contracts, leases, and other
19 agreements necessary to carry out the terms of the proposal. If the proposal selected includes
20 a site wholly or partially on state land, the legislative council shall take all action necessary to
21 arrange for the transfer of the land to the municipality at no cost, including the introduction of
22 legislation to accomplish that purpose. The contract procedures adopted by the legislative
23 council under AS 36.30.020 do not apply to the selection of a proposal under this section or to
24 a contract, lease, or other agreement entered into by the committee under this section.
25 AS 35.05.010 does not apply to planning for or construction of a legislative hall under this
26 Act.

27 * Sec. 5. AS 44.06.050, 44.06.055, and 44.06.060 are repealed.

28 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 TRANSITION. Notwithstanding AS 24.05.090 and other provisions of law, if a
31 legislative hall is constructed under this Act, beginning with the First Regular Session of the

1 Twenty-Sixth Alaska State Legislature and during each session thereafter, the legislature shall
2 convene in that legislative hall. The revisor of statutes shall prepare a bill and submit it to the
3 Alaska Legislative Council making all changes to statutes necessary to conform to this
4 section.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

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LABOR & COMMERCE COMMITTEE, MEMBER
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SECTIONAL ANALYSIS FOR CSHB 23()

BY: Representative Norman Rokeberg

Title: An Act relating to construction of a legislative hall; and repealing provisions relating to relocating the capital, the legislature or any of the present functions of state government.

Changes in CS indicated in BOLD.

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- Section 3:** Proposals for Legislative Hall. May be submitted by boroughs or unified municipalities with a population of at least 30,000.
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- Section 4:** Selection of a Proposal. Council must select or reject all proposals by June 30, 2007. If proposal selected, Council will enter into contracts, leases, etc. If proposal includes a site wholly or partially on state land, Council shall take all actions to arrange for transfer of land to municipality at no cost. AS 36.30.020 and AS 35.05.010 do not apply to this Act.

- Section 5:** Repeals the provisions of the Frank Initiative.

- Section 6:** Transition. The first regular session of 26th Legislature and all thereafter shall convene in the hall. The Revisor shall propose legislation making all changes to statutes necessary to conform to this section.

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Is Juneau capital forever? Let's have a nonpartisan opinion

By JOHN STROHMEYER

(Published: March 27, 2005)

Juneau's bold venture to build a new Capitol building and ask citizens all over the state for views on its design is either naive wishful thinking or plain arrogance. The public never voted to place the capital in Juneau in the first place, and it once actually voted to move it out.

That Juneau now presumes it is to remain the capital forever begs for a challenge. It just might have opened the time for citizens to ask for the appointment of a nonpartisan commission for an honest appraisal of the capital location issue. Many feel that issue was never settled honestly.

I've been in Alaska for 19 years, but I was not here for the debates and elections in the 1960s and 1970s, when moving the capital became an overpowering issue. I suspect most Alaskans were not here either. However, I did research those charged times when Bob Atwood, editor and publisher of The Anchorage Times, asked me to help him write his memoirs during the early '90s.

Atwood led the first serious drive to move the capital. He used the editorial voice of The Times, then the largest paper in the state, to argue how moving out of isolated Juneau would be in Alaska's total interest. Not only did Atwood share his personal papers and recollections with me, but Fuller Cowell, former publisher of the rival Daily News, which acquired The Times in 1992, gave me complete access to his newspaper's library, commonly known as the morgue.

Fuller's help was extremely important because, in the buyout, the Daily News acquired the entire Times library. Thus, I had access to the hundreds of news clippings and editorials detailing the capital move battle during the three crucial statewide votes.

How Juneau became the capital is a subject of many apocryphal stories. The most common seems to be that in 1880, two boozing prospectors -- Joe Juneau and Richard Harris -- discovered gold in Gold Creek on the Gastineau Channel in Alaska's Panhandle. The discovery attracted hundreds of adventurous gold seekers who staked out claims, created a town site and then named it after miner Joe.

Next, enterprising miners and businessmen passed the hat and secretly sent a representative to Washington to urge Congress to move the capital out of remote Sitka, where the Russians had placed it. The territorial governor, John Brady, protested vigorously, saying he was comfortable in Sitka and deriding Juneau as being built on a hillside at the edge of an ocean channel, having no decent building to house a Capitol and lacking enough stable land to build one.

Congress never made a firm decision, which left the impression that Juneau simply stole the capital when in 1906 Gov. Brady was ousted. He was replaced by Wilford B. Hoggatt, who owned a gold mine in Juneau and promptly started doing capital business from a sparse office in Juneau.



The state Capitol building stands on Main Street in downtown Juneau.
(Photo by SEANNA O'SULLIVAN / The Associated Press)

Atwood said he had no intention of resurrecting the debate over the ethics on how Juneau emerged with the prize. Instead, in March 1959, having completed a successful battle as chairman for statehood, he decided it was a proper time to start a public dialogue on bringing the capital closer to the center of the state's population, as previous states had done after being admitted to the union. His editorial simply urged the public to discuss the issue.

That editorial hit Juneau like a bomb. The Juneau Empire charged that Atwood was out to kill Juneau for the aggrandizement of Anchorage. Neither political party wanted any part of the argument. However, once people began airing the pros and cons, moving the capital became a citizen crusade. Dr. Merritt P. Starr, an Anchorage physician, enlisted outlying civic leaders, Kenai attorney James K. Fisher and Clarence Bailey of Palmer among them, to form a Capitol Information Committee. Rep. Earl Hillstrand, D-Anchorage, chaired a committee to solicit signatures and put the question to a vote.

Juneau officials fought the validity of the ballot question, spurred by the Empire, which planted the idea it would take a whopping \$50 million to move the capital. The move supporters won the legal challenges and brought in an internationally known engineer to debunk the \$50 million claim. He stated sale of state lands around a new setting along the Railbelt would offset much of the cost of a new Capitol.

After a campaign The Associated Press described as the bitterest in Alaska history, almost 40,000 people voted on Aug. 10, 1960. The referendum lost by 5,107 votes. While celebrations reigned in Juneau, back in Anchorage Dr. Starr said the election was so close that his committee would immediately start planning a new election.

More acrimony and legal challenges followed. Nevertheless, the second election was held in November 1962. This time the capital move lost by a margin of 5,783 votes.

That might have ended the matter had not a massive stream of oil money begun to flow. That radically changed the mood of Alaskans. Until now one of the poorest of states, Alaska was on its way to becoming the richest. And what greater symbol of success than a modern capital easily accessible to citizens of the state, Atwood's editorials proclaimed.

Voters went to the polls for a third election on Aug. 27, 1974. This time Alaskans voted to relocate the capital by a convincing margin of 46,659 for and 35,683 against. All that was left was for the governor to pick a Capital Site Planning Committee, which would propose three new sites for the voters to choose. It eventually offered three sites, all open land, between Anchorage and Fairbanks. On Nov. 2, 1976, the voters chose Willow.

The people thought they had made a decision to move the capital, but they didn't count on the behind-doors plotting of the Juneau team that had approval of the Republican Legislature and the new Republican governor, Jay Hammond.

By outrageously inflating the cost and size of a new Capitol (about four times the size of Juneau's), they announced voters would have to approve a \$966 million bond issue. Then the Legislature provided the final nail to the coffin by requiring voter approval of all bondable costs before any money could be spent on the building.

"Nobody of good conscience could vote for a deal like that," Atwood said. On Nov. 7, 1978, voters defeated the \$966 million bond issue 88,783 to 31,491, and so the battle faded into lingering embers. In 1982, voters once more were given an inflated choice and were compelled to vote against a \$2.84 billion bond issue to build the new Capitol in Willow. The vote was 102,083 to 91,249.